88-8

DEFENSE ACQUISITION CIRCULAR

12 JUNE 1989 **NUMBER 88-8**

This Defense Acquisition Circular is issued by direction of the Secretary of Defense pursuant to the authority contained in 5 U.S. Code 301, 10 U.S. Code 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective 12 August 1989, in accordance with DoD FAR Supplement 201.301(S-70)(4).

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ITEM I--RESTRICTION ON PROCUREMENT FROM TOSHIBA CORPORATION AND KONGSBERG VAPENFABRIKK (CANCELLATION OF INTERIM RULE) (INFORMATION ITEM)

Coverage on the Restriction on Procurement from Toshiba Corporation and from Kongsberg Vapenfabrikk was published in the Federal Register as an interim rule on 21 March 1988 (53 FR 9118) and corrected on 30 March 1988 (53 FR 10250). The coverage was provided to contracting officers in Departmental Letters 88-10 (17 March 1988) and 88-31 (15 September 1988). That coverage is canceled because the coverage now appears in the Federal Acquisition Regulation (FAC 84-46, 54 FR 19812). A notice of cancellation was published in the Federal Register on 23 May 1989 (54 FR 22282).

ITEM II--PROCUREMENT INTEGRITY (FINAL RULE)

Section 6 of the Office of Federal Procurement Policy (OFPP) Act Amendments of 1988 amended the OFPP Act by adding Section 27, Procurement Integrity. Section 27 contains prohibitions involving: (a) conduct by offerors, contractors and Government procurement officials; (b) unauthorized disclosure of proprietary or source selection information; and (c) restrictions on Government officials and employees after they leave Government service. DFARS Parts 201, 203, and 208 were revised on 16 May 1989 to provide coverage implementing recent revisions to the Federal Acquisition Regulation regarding Procurement Integrity. The final rule was published in the Federal Register on 16 May 1989 (54 FR 21067), and corrected on 23 May 1989 (54 FR 22282). This final rule, making an editorial correction to 201.401, is effective 16 July 1989.

Replacement pages: 201.4-2, 203.1-1, and 208.70-6.

ITEM III--SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (FINAL RULE)

DFARS Parts 204, 219, and 252 are revised to further implement FAR Subpart 19.10 and the 22 December 1988 Joint Office of Federal Procurement Policy (OFPP) and Small

ITEM III (Continued)

Business Administration (SBA) interim policy directive and test plan implementing Title VII of the "Business Opportunity Development Reform Act of 1988", Public Law 100-656 (53 FR 52889). An interim rule with request for comments was published in the Federal Register on 27 January 1989 (54 FR 4246), and corrections were published on 3 February 1989 (54 FR 5484) and 17 February 1989 (54 FR 7191).

Replacement pages: 204.6-2, 204.6-25, 204.6-28, 204.6-29, 204.6-36, 204.6-40, 204.6-41, 219.10-1 through 219.10-3, 252.219-23, and 252.219-24.

ITEM IV--SMALL BUSINESS PARTICIPATION IN DREDGING (FINAL RULE)

DFARS 204 and 219 are revised to highlight a requirement placed on the Department of the Army by Section 722 of Public Law 100-656, Business Opportunity Development Reform Act of 1988, to expand small business participation in dredging.

Replacement pages: 204.6-28, 204.6-40, and 219.10-1.

ITEM V--MILITARY INTERDEPARTMENTAL PURCHASE REQUESTS (MIPR) (FINAL RULE)

The procedures of DFARS 208.70 for coordinated acquisitions have been changed to: (a) require the MIPR to list used or reconditioned material, former Government surplus property and residual inventory anticipated to be used on the contract and the basis for determining such items acceptable for use; and (b) clarify procedures for the withdrawal of excess funds. Editorial changes also have been made.

Replacement pages: 208.70-1 through 208.70-17.

ITEM VI--ENGLISH TRANSLATION OF CONTRACTS (FINAL RULE)

The clause at 252.213-7000, Inconsistency Between English Version and Translation of Contracts, is deleted. The coverage will be transferred to the FAR in FAC 84-50.

Replacement pages: None (252.213-1 and 252.213-2 removed).

ITEM VII--SMALL DISADVANTAGED BUSINESSES (SDBs), HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCUs), AND MINORITY INSTITUTIONS (MIs) (FINAL RULE)

DFARS Parts 219, 226, and 234 are revised to further implement Section 1207 of Public Law 99-661 and Section 806 of Public Law 100-180. These statutes require DoD to establish a goal to award 5% of contract dollars to Small Disadvantaged Businesses (SDBs), Historically Black Colleges and Universities (HBCUs), and Minority Institutions (MIs) during fiscal years 1987-89. Section 844 of Public Law 100-456 extended the 5% goal through 1990. These changes are intended to facilitate DoD's efforts to accomplish the 5% goal.

Replacement pages: 219.2-2, 219.2-9,
219.7-2, 219.7-3,
219.8-1, and
226.70-2.

ITEM VIII--FIXED-PRICE CONTRACTS WITH AWARD FEES (FINAL RULE)

DFARS 216.403-70 is revised to provide for award fees as incentives in fixed-price contracting.

Replacement page: 216.4-2.

ITEM IX--RESTRICTIONS ON THE ACQUISITION OF VALVES AND MACHINE TOOLS FROM FOREIGN SOURCES (FINAL RULE)

Coverage with respect to restrictions on the acquisition of valves and machine tools from foreign sources was published in DAC #88-4 as an interim rule with request for comments in the Federal Register on 21 February 1989 (54 FR 7425). This DAC finalizes the coverage published in the interim rule, with only a minor editorial change.

Replacement page: 225.70-9.

ITEM X--CANADIAN COMMERCIAL CORPORATION ENDORSEMENT (FINAL RULE)

DFARS 225.7104(a)(2)(ii) is revised to clarify that failure to provide an endorsement by the Canadian Commercial Corporation on an offer by a Canadian firm is a minor irregularity that can be corrected after submission of offers but prior to contract award. This revision implements a GAO recommendation.

Replacement page: 225.71-3.

ITEM XI--PROGRESS PAYMENTS (FINAL RULE)

DFARS Part 232 is revised to change progress payment rates on defense contracts to the levels currently provided in the FAR. Coverage was published in DAC #88-2 as an interim rule in the Federal Register on 14 September 1988 (53 FR 35511), with an effective date of 1 October 1988. As a result of public comments, this rule finalizes the interim rule and adds two sentences at 232.501-1(a), allowing the contracting officer, where appropriate, to utilize both the old rate and the new rate for different line items in the same contract.

Replacement page: 232.5-1.

ITEM XII--SUBMISSION OF CLAIMS BY CONTRACTORS (FINAL RULE)

DFARS 233.204 is added to make contracting officers aware that they should obtain information on claims previously filed by contractors with other contracting officers before settling the current claim. This coverage is added to implement a DoDIG recommendation.

Replacement page: 233.2-1.

ITEM XIII-RETURNABLE GAS CYLINDERS (FINAL RULE)

DFARS 247.305-70 is added to prescribe the use of DFARS 252.247-7201 (formerly 252.213-7001), Returnable Gas Cylinders. Revisions have been made to the redesignated clause.

Replacement pages: 247.3-2, 252.247-23, and 252.247-24 (252.213-1 and 252.213-2 removed).

ITEM XIV--PROPERTY ADMINISTRATION (FINAL RULE)

DFARS Supplement No. 3, S3-603(a), is revised to increase from 10 to 30 the number of days in which property administrators have to prepare and submit to the Defense Logistics Agency DD Form 1662, DoD Property in the Custody of Contractors. Additionally, the revision permits electronic preparation of the report in lieu of manual preparation.

DD Form 1662 has been revised to add the Commercial and Government Entity (CAGE) Code, to eliminate two blocks recording additions and deletions of agency-peculiar (military) property, and to make conforming modifications in the instructions contained on the back of the form.

ITEM XIV (Continued)

NOTE: DAR Supplement No. 3 is not part of the subscription to the DoD FAR Supplement. It must be purchased separately from the Government Printing Office.

Replacement pages: 253.3-79, 253.3-80, and S3:19.

ITEM XV--DD FORM 1707, INFORMATION TO OFFERORS OR QUOTERS (FINAL RULE)

DD Form 1707, Information to Offerors or Quoters, is revised to eliminate inconsistencies with the FAR as changed by FAC 84-5, dated 20 December 1984.

Replacement pages: 253.3-83 and 253.3-84.

ITEM XVI--EDITORIAL CORRECTIONS

(a) The title to DFARS 201.601 is revised to conform to the title in the FAR.

(b) DFARS 215.613(j) is revised to change the reference "15.1002" to read "215.1002."

Replacement pages: 201.6-1 and 215.6-7.

ITEM XVII--CORRECTION TO DAC #88-7

In the instructions for replacement pages, under the heading "Remove the following pages:", "252.208-5 through 252.208-7" is changed to read "252.208-5 through 252.208-8".

DAC #88-8

REPLACEMENT PAGES

Remove the following pages:	Insert the following pages:
201.4-1 and 201.4-2	201.4-1 and 201.4-2
201.6-1	201.6-1
203.1-1 through 203.1-4	203.1-1 through 203.1-5
204.6-1 and 204.6-2	204.6-1 and 204.6-2
204.6-25 through 204.6-39	204.6-25 through 204.6-41
208.70-1 through 208.70-18	208.70-1 through 208.70-18
215.6-7	215.6-7
216.4-1 through 216.4-4	216.4-1 through 216.4-4
219.2-1 through 219.2-10	219.2-1 through 219.2-10
219.7-1 through 219.7-3	219.7-1 through 219.7-3
219.8-1	219.8-1
---	219.10-1 through 219.10-3
225.70-9 and 225.70-10	225.70-9 and 225.70-10
225.71-3 and 225.71-4	225.71-3 and 225.71-4
226.70-1 and 226.70-2	226.70-1 and 226.70-2
232.5-1 through 232.5-5	232.5-1 and through 232.5-5
233.2-1	233.2-1
247.3-1 and 247.3-2	247.3-1 through 247.3-3
252.213-1 and 252.213-2	---
---	252.219-23 and 252.219-24
252.247-23 through 252.247-26	252.247-23 through 252.247-28
253.3-79 and 253.3-80	253.3-79 and 253.3-80
253.3-83 and 253.3-84	253.3-83 and 253.3-84
DFARS Supplement No. 3, pages S3:19 and S3:20	DFARS Supplement No. 3, pages S3:19 and S3:20

PART 201--FEDERAL ACQUISITION REGULATIONS SYSTEM
SUBPART 201.4--DEVIATIONS FROM THE FAR

201.402 Policy.

(a) The FAR and the DoD FAR Supplement are not intended to stifle the development of new techniques or methods of procurement. Innovation to attain desirable objectives will occasionally necessitate deviations from this regulation and the FAR, and it is the responsibility of contracting officers to request such deviations whenever they are required in the best interest of the Government. For the purpose of this paragraph, a deviation shall be considered to be any of the following:

(1) when a contract clause is set forth in the FAR or DOD FAR Supplement for use verbatim, use of a contract clause covering the same subject matter which varies from the FAR or DoD FAR Supplement coverage, or use of a collateral provision which modifies either the clause or its prescribed application constitutes a deviation; however, in the case of a purchase or contract of an offshore contracting activity with a foreign contractor made outside the United States, its possessions, or Puerto Rico, such contract clauses may (subject to the direction of authority above the level of the contracting officer) be modified if no change in intent, principle, or substance is made (offshore contracting activities shall keep the cognizant unified commander advised of significant deviations effected under this subparagraph (1));

(2) when a contract clause is set forth in the FAR or this regulation but not for use verbatim, use of a contract clause covering the same subject matter which is inconsistent with the intent, principle and substance of the FAR or DoD FAR Supplement clause or related coverage of the subject matter;

(3) omission of any mandatory contract clause;

(4) when a Standard, DD, or other form is prescribed by the FAR or a Department of Defense Directive, use of any other form for the same purpose;

(5) alteration of a Standard, DD, or other form (other than Departmental forms), except as authorized by the FAR, this regulation, or a Department of Defense Directive;

(6) when limitations are imposed in FAR, this regulation, or a Department of Defense Directive, upon the use of a contract clause, form, procedure, type of contract, or any other procurement action, including but not limited to the making or amendment of a contract, or actions taken in connection with the solicitation of bids or proposals, award, administration or settlement of contracts, the imposition of lesser or greater limitations;

(7) when a policy, procedure, method or practice of conducting procurement actions of any kind at any stage of the procurement process is covered by the FAR or this regulation, any policy, procedure, method or practice which is inconsistent with that set forth;

(8) issuance of any instructions described in 201.304 (including an instruction for any additional contract clause, form, or type, or additional procurement policy, procedure, method of practice, not covered in the FAR, this regulation or in Department of Defense Directives) unless permitted under 201.304;

(9) a contract saving clause whereby the parties are committed to a contract modification in the event of changes in controlling statutes or regulations during the term of the contract. Any such saving clause shall require approval pursuant to 201.404.

(b) Requests for approval of any deviation from the FAR or this regulation shall be forwarded to the approving authority through procurement channels. Each submission shall contain as a minimum:

(1) identification of the FAR or DoD FAR Supplement requirement from which deviation is sought;

(2) a full description of the deviation and the circumstances in which it will be used;

(3) a description of the intended effect of the deviation;

(4) a copy of any pertinent document, including forms or clauses and the proposed contractor's request, if any;

(5) a statement of the period of time for which the deviation is needed; and

(6) detailed reasons supporting the request.

201.403 Individual Deviations.

(a) Except where elsewhere prohibited, deviations from the FAR or this supplement or a Department of Defense Directive which affect only one contract or procurement may be made or authorized in accordance with Departmental procedures. A copy shall be furnished to:

The Deputy Assistant Secretary of Defense (Procurement)
OASD(P&L) Attention: DAR Council
Washington, DC 20301-3062

(b) Examples of deviations from certain provisions of the FAR or this regulation not permitted under (a) above, although affecting only one contract or procurement, are:

(1) provisions required by statute or executive order;

(2) Subpart 227.4;

(3) Subpart 231.1;

(4) Subpart 231.2;

(5) Subpart 232 (except 232.7, 232.8, and the Payment clauses in 232.1).

(6) Section 203.104 or FAR Section 3.104.

201.404 Class Deviations.

Except as authorized in 201.403, deviations from this supplement or a Department of Defense Directive will not be effected unless approved in advance by the Assistant Secretary of Defense Production and Logistics) (ASD(P&L)); provided, however that unanimous approval by the members of the DAR Council will constitute approval of the

PART 201--FEDERAL ACQUISITION REGULATIONS SYSTEM
SUBPART 201.6--CONTRACTING AUTHORITY AND RESPONSIBILITIES

201.601 General. Except as otherwise prescribed by procedures of each respective Department, the Head of a Contracting Activity is responsible for acquisitions under or assigned to that activity.

201.603-3 Appointment. Certificates of Appointment which were issued under the purview of the Armed Services Procurement Regulation and its successor, the Defense Acquisition Regulation, will have the same effect as if they had been issued under the Federal Acquisition Regulation.

PART 203--IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST
SUBPART 203.1--SAFEGUARDS

203.101 Standards of Conduct.

203.101-3 Agency Regulations. The applicable Department of Defense directive on Standards of Conduct is DODD 5500.7. See AR 600-50 for the Army; SECNAV Instr. 5370.2G of 4 August 1977, for the Navy; AFR 30-30, for the Air Force; DLAR 5500.1, for the Defense Logistics Agency; DCA Inst. 220-50-1, for the Defense Communications Agency; DNA Inst. 5500.7A, for the Defense Nuclear Agency; and DMA Inst. 5500.1, for the Defense Mapping Agency.

203.103 Independent Pricing.

203.103-2 Evaluating the Certification.

(b)(3) Whenever an offer is rejected under FAR 3.103-2(b)(1) or (2), or the certificate is suspected of being false, the matter shall be reported in accordance with 3.000 as well as being reported to the Attorney General in accordance with FAR 3.303.

203.104 Procurement Integrity.

203.104-1 General. For DoD, as provided in subsection 25(d) of the OFPP Act (41 U.S.C. 421), all agency regulations that supplement or implement FAR 3.104 or this section, beyond internal agency operating procedures, must be approved by the Under Secretary of Defense for Acquisition or his or her designee within that office. Both individual and class deviations must be referred to the DAR Council.

203.104-4 Definitions.

(f) For DoD, the agency regulation is DoD Directive 5500.7, Standards of Conduct.

203.104-5 Disclosure of Proprietary and Source Selection Information.

(e)(4) For purposes of FAR 3.104-5(e)(4) only, DoD agencies shall follow the notification procedures in FAR 27.404(h). However, the first sentence in FAR 27.404(h) does not apply to DoD.

203.104-9 Certification Requirements.

(b)(2)(viii) For Basic Ordering Agreements prior to issuance of each BOA order expected to exceed $100,000. For BOA orders, identification of the beginning of the conduct of a procurement (see FAR 3.104-7) applies only to the instant order.

203.170 Statutory Compensation Prohibitions and Reporting Requirements Relating to Certain Former Department of Defense (DoD) Employees.

203.170-1 Definitions.

"Armed Forces", as used in this section, means the uniformed military services but excluding the U.S. Coast Guard.

"Compensation", as used in this section, means any payment, gift, benefit, reward, favor, or gratuity which is provided directly or indirectly for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity, and which has a fair market value in excess of $250. Compensation shall be deemed indirectly provided if it is paid to an entity other than the individual, specifically in exchange for services performed by the individual.

"Defense contractor", as used in this section, means an entity that contracts directly with the DoD to supply the DoD with goods or services (including affiliates and subsidiaries which clearly engage in the performance of defense contracts). "Defense contractor" does not include a state or local government.

"Designated Agency Ethics Official (DAEO)", as used in this section, means a DoD officer or employee who has been appointed to administer the provisions of the Ethics in Government Act, as amended.

"Former DoD Employee", as used in this section, means a person who served in the DoD in a civilian position for which the rate of pay was equal to or greater than the minimum rate of pay for Grade GS-13 of the General Schedule, or served in the Armed Forces in a pay grade of 04 or higher.

"Former DoD official", as used in this section, means the following:

(a) An individual who served in a civilian position for which the rate of pay was equal to or greater than the minimum rate of pay for Grade GS-13 of the General Schedule, or who served in the Armed Forces in a pay grade of 04 or higher, who--

(1) Spent the majority of working days during the last two years of DoD service performing a procurement function relating to a DoD contract, at a site or plant that was owned or operated by the contractor, and which was the principal location of such person's performance of that procurement function; or

(2) Performed, on a majority of the person's working days during the last two years of DoD service, a procurement function relating to a major defense system and, in the performance of such function, participated on any occasion personally and substantially in a manner involving decision-making responsibilities with respect to a contract for that system through contact with the contractor;

(b) An individual who served in a civilian position for which the rate of pay is equal to or greater than the minimum rate of pay for a Senior Executive Service position or other executive position at the same or higher level, and an individual who served in the Armed Forces in the pay grade of 07 or higher, if such individuals during the last two years of DoD service--

(1) Acted as one of the primary representatives of the United States in the negotiation with a defense contractor of a defense contract in an amount in excess of $10 million (the actual contractual action in which the individual was involved must have been in an amount in excess of $10 million); or

(2) Acted as one of the primary representatives of the United States in the negotiation of a settlement of an unresolved claim of such a defense contractor in an amount in excess of $10 million. An unresolved claim shall be, for the purposes of this section, valued by the greater of the amount of the claim or the amount of the settlement.

"Major defense contractor", as used in this section, means any business entity which, during the Government fiscal year preceding the Government fiscal year in which compensation was first provided to a former DoD employee, was awarded defense contracts in a total amount equal to or greater than $10 million.

"Major defense system", as used in this section, means a combination of elements that will function together to produce the capability required to fulfill a mission need. Elements may include hardware, equipment, software, or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major defense system if--

(a) The DoD is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to exceed $75 million (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement is estimated to exceed $300 million (based on fiscal year 1980 constant dollars); or

(b) The system is designated a major system by the head of the agency responsible for the system.

"Negotiation", as used in this section, means exchange of views between representatives of the Government and a contractor regarding respective liabilities and responsibilities of the parties on a particular contract or claim. It includes deliberations regarding contract specifications, terms of delivery, allowability of costs, pricing of change orders, etc.

"Primary Government representative", as used in this section, means if more than one Government representative is involved in any particular transaction, the official or officials supervising the Government's effort in the matter. To act as a "representative" requires personal and substantial participation in the transaction, by personal presence, telephone conversation, or similar involvement with representatives of a contractor.

"Procurement-related function" (or "procurement function"), as used in this section, means any function relating to--

(a) The negotiation, award, administration or approval of a contract;

(b) The selection of a contractor;

(c) The approval of a change in a contract;

(d) The performance of quality assurance, operational and developmental testing, the approval of payment, or auditing under a contract; or

(e) The management of a procurement program.

203.170-2 Policy.

(a) 10 U.S.C. 2397b(a) prohibits former DoD officials who left DoD service on or after 16 April 1987 and who performed procurement-related functions in connection with a major defense contractor from accepting compensation from that same contractor for a period of two years after such officials have left service with DoD. Related implementation of the statute for the DoD may be found in DoD Directive 5500.7, Standards of Conduct.

(b) 10 U.S.C. 2397c requires that each contract entered into by DoD for the procurement of goods or services in excess of $100,000 contain a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by that person would violate section 2397b(a).

203.170-3 Reporting Requirements. Major defense contractors are required to report, as delineated in paragraph (c) of the clause at 252.203-7002, on employment of certain former DoD employees. The reports are to be submitted to the Office of the Assistant General Counsel (Legal Counsel), Standards of Conduct Office, Attn: OAGC/LC, Pentagon, Washington, DC 20301-1600 not later than 1 April of the year following the calendar year period covered by the report.

203.170-4 Penalties.

(a) Major defense contractors are subject to the following penalties for knowing failures to comply with the statute or with the contractual prohibition or the reporting requirements specified in the statute:

(1) Civil fines up to $500,000 for knowingly offering or providing compensation to another person with knowledge that acceptance of that compensation is or would be in violation of the statute.

(2) Liquidated damages in the amount of either $100,000 or three times the amount of compensation paid by the contractor to the former DoD official, whichever is greater, for failure to comply with the contract prohibition.

(3) An administrative penalty not to exceed $10,000 for failure to report as required by the statute and as implemented in paragraph (c) of the clause at 252.203-7002.

(b) Liquidated damages will be assessed in accordance with agency procedures in coordination with the appropriate DAEO.

203.170-5 Contract Clause. Contracting officers shall include the clause at 252.203-7002, Statutory Compensation Prohibitions and Reporting Requirements Relating to Certain Former DoD Employees, in all solicitations and contracts expected to exceed $100,000.

PART 204--ADMINISTRATIVE MATTERS
SUBPART 204.6--CONTRACT REPORTING

204.601 Record Requirements.

(a) The Defense Contract Action Data System (DCADS) meets the record retention requirements of FAR 4.601.

(d) The information required to be transmitted to the Federal Procurement Data System shall be transmitted by Washington Headquarters Services via the DCADS based on feeder reports (DD Forms 350 and 1057) submitted to it by the Departments.

204.670-1 Scope. This section prescribes uniform reports which are required to be prepared by purchasing and contract administration offices in order to meet the requirements of the Federal Procurement Data System and the DCADS, and to provide management with necessary information to help formulate, change or measure the effectiveness of acquisition policy.

204.670-2 Definitions. As used in 204.671 and 204.672, the following terms have the meanings stated below:

"Commercial and Government Entity (CAGE) Code" means:

(a) A code assigned by the Defense Logistics Services Center (DLSC) to identify a contractor or manufacturer and published in the Commercial and Government Entity (CAGE) Handbook H4/H8; or

(b) A code assigned by a member of the North Atlantic Treaty Organization (NATO) and maintained by DLSC; or

(c) One of the above codes used in subpart 204.6 to identify contractors.

"Contract Administration Office" means the office which awards or executes a contracting action as defined below, when such action is accomplished by an ACO on behalf of the Contracting Officer who assigned contract administration responsibility to that office. This includes actions taken by a TCO relating to the settlement of terminated contracts.

"Contracting Action" means any written action obligating or deobligating funds in connection with the purchasing, renting, leasing, or otherwise obtaining supplies, services, or construction. The term includes: preliminary contractual instruments; letter contracts; definitive contracts, including notices of award; purchase orders; BPA calls; job orders; task orders; delivery orders; contingency orders; administrative notices; communication services authorizations (CSA's); production lists; priced exhibits; other orders under existing contracts; and contract modifications such as change orders or agreements, supplemental agreements, funding changes, option exercises, and notices of termination or cancellation.

"Contracting Office" means any office which awards or executes a contracting action when that action is accomplished by the Contracting Officer. Included in the term are activities which place orders against DoD contracts, against another agency's contract, or against Federal Supply Schedules, when such action is not taken in conjunction with an assigned contract administration responsibility.

"Emerging Small Business", as used in this part, is as defined in FAR 19.1002.

"Nonprofit Institution" means any corporation, foundation, trust, or institution not organized for profit, no part of the net earnings of which inure to the benefit of any private shareholder or individual. Included are educational and scientific institutions of a nonprofit nature, and state, local, and other non-Federal Government agencies.

"United States and Outlying Areas" is defined by Federal Information Processing Standard Publication (FIPS PUB) 55-2, Guideline: Codes for Named Populated Places, Primary County Divisions, and Other Locational Entities of the United States and Outlying Areas. Included are American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, the Trust Territory of Palau, Puerto Rico, the U.S. Minor Outlying Islands and the Virgin Islands of the U.S.

204.670-3 Solicitation Provisions and Contract Clauses.

(a) Contractor Establishment Code. The contracting officer shall insert in solicitations exceeding the small purchase limit the provision at 252.204-7004 when it is appropriate to request the offeror to supply his Contractor Establishment Code.

(b) Commercial and Government Entity (CAGE) Codes. CAGE is the umbrella term for DoD assigned codes used to identify commercial and government activities. CAGE codes have also been known in the past as Federal Supply Codes for Manufacturers (FSCM), Federal Supply Codes for NonManufacturers (FSCNM), MILSCAP codes, H-4 codes, H-8 codes, or other terms.

(1) The contracting officer shall insert the provision at 252.204-7007 when it is appropriate to request the offeror to supply its CAGE code.

(2) The contracting officer shall assist the offeror in obtaining the required CAGE code(s).

(3) Prospective offerors may not be denied a solicitation or bid set because the offeror does not have a CAGE code.

204.670-4 Numbering of Subpart. The numbering in this subpart differs from the standard DFARS numbering system in that the principal subdivisions within subsections 204.671-5 and 204.672-5 pertain to the parts of DD Form 350 or the sections of DD Form 1057. These subdivisions are further segmented by reference to the report item or

Code Z - Other Reason. Report this code when an SDB did not receive the award for any other reason.

Item D3, Reason Not Awarded to Small Business Concern. A Small Disadvantaged Business is included in the term "Small Business Concern". If Item B13 is coded 7, leave this item blank. If Item D1 above was coded C, enter an appropriate code from the available codes below. Otherwise, leave blank.

Code A - No Known Small Business Source. Enter if applicable.

Code B - Small Business Not Solicited. Enter this code if there was a known small business source but it was not solicited.

Code C - Small Business Solicited - No Offer. Enter if a small business concern was solicited, but no offer was received from such concern, or the concern did not offer sufficient quantity to cover the total requirement but received a separate award for the portion bid on under this solicitation.

Code D - Small Business Solicited - Offer Not Low. Enter this code if a small business concern was solicited but the low or most advantageous offer was not from small business. Also enter Code D if a small business concern was not willing to accept award of a set-aside portion of an action at the price offered by the Government.

Code Z - Enter if not awarded to small business for any other reason.

Item D4, Preference Program.

Item D4A - Type of Small Business Set-Aside. For Historically Black Colleges and Universities and Minority Institution set-asides, enter Code A and report in Item D4C below. Enter the appropriate code shown below:

Code A - None. Enter this code if no set-aside preference for small business concerns was given. Enter this code for Historically Black Colleges and Universities and Minority Institution set-asides and report in Item D4C below.

Code B - Total Small Business Set-Aside. Enter this code if total small business set-aside preference was given pursuant to FAR 19.502-2.

Code C - Partial Small Business Set-Aside. Enter this code if partial small business set-aside preference was given pursuant to 219.502-3(S-70) or FAR 19-502-3.

Code D - Combined Small Business/Labor Surplus Area Set-Aside. Enter this code if combined labor surplus and set-aside preference was given pursuant to 219.502-70. The place of performance shown in Item B6 above must be located within a Labor Surplus Area.

Code E - Total Small Disadvantaged Business Set-Aside. Enter this code if this action was totally set-aside for small disadvantaged businesses pursuant to 219.502-72 and complete Item D4B below.

Code Y - Enter this code if the action resulted from an emerging small business set-aside (219.1070-2).

Item D4B - Type of Small Disadvantaged Business Set-Aside/SDB Preference. Enter the appropriate code shown below:

Code A - None. Enter this code if no preference was given.

Code B - Section 8(a) Awards. Enter this code if the contract was awarded to the Small Business Administration (SBA) under Section 8(a) of the Small Business Act pursuant to FAR 19.8.

Code C - Total SDB Set-Aside. Enter this code if the contract was awarded to an SDB firm as a result of SDB set-aside pursuant to 219.502-72.

Code D - SDB Evaluation Preference - Unrestricted. Enter this code if the solicitation was unrestricted but the SDB received an evaluation preference pursuant to 219.7000.

Code E - SDB Preferential Consideration - Partial Small Business Set-Aside. Enter this code if the action was partially set-aside for small business and preferential consideration was given to the SDB pursuant to 219.502-3(S-70).

Item D4C - Type of HBCU or MI Set-Aside Preference. If Item B13 is coded 7, use Code A. Otherwise, enter the appropriate code shown below:

Code A - None. Enter this code if the action was not set-aside for HBCUs or MIs.

Code B - Enter this code if the action was totally set-aside for HBCUs and MIs pursuant to 226.7004.

Code C - Enter this code if the action was partially set-aside for HBCUs or MIs pursuant to 226.7004.

Item D4D - Other Preference Program. Enter the appropriate code below which identifies whether or not additional preference was given in this action. Combined Small Business/Labor Surplus Area Set-Asides are reported in Item D4A above. The Department of Labor publication "Listing of Eligible Labor Surplus Areas Under Defense Manpower Policy No. 4B and Executive Orders 10582 and 12073" defines all areas classified as labor surplus areas. If Code B or C is entered, the entry in Item B6 must be a location which on the date of the initial action was located within a labor surplus area.

Code A - Directed to Workshops. Report this code for an award to a workshop for the blind or a workshop for the other severely handicapped pursuant to FAR 8.7 for an item(s) on the Procurement List.

Code B - Partial Labor Surplus Area Set-Aside. Enter if the action was awarded to a concern in a labor surplus area wherein preference was given under partial labor surplus area set-aside procedures (220.7003).

Code C - Tie Bid Labor Surplus Area Preference. Enter this code if the contract action was awarded to a concern in a labor surplus area and tie bid preference (FAR 14.407-6) was given.

Code Z - None of the Above. Enter this code if no other code in this item applies.

Item D4E, Premium Percent. Complete only if Item D4B is coded C through E or Item D4C is coded B or C. Otherwise, leave blank.

(i) If Item D4B is coded C through E, or Item D4C is coded B or C, enter the applicable premium percentage.

(ii) If Item B13 is coded 1 through 4 or A and a premium percentage was paid for the contract action, enter the premium percentage as a three-digit number calculated in accordance with 219.202-5(b) and rounded to the nearest tenth, (e.g., 7.55% shall be entered as 076).

(iii) If Item B13 is coded 5 or B through G, enter the same percentage as the initial contract action (see 219.202-5(b)).

(iv) If the contract did not result in the payment of a premium, enter three zeros (000).

Item D5 - Ethnic Group. If Item B13 is coded 7, leave this item blank. If the award was made to a small disadvantaged business concern, enter the code below which corresponds to the ethnic group the contractor represented (see representation provision 252.219-7005). Otherwise, leave blank.

Code A - Subcontinent Asian (Asian-Indian) American.
Code B - Asian-Pacific American.
Code C - Black American.
Code D - Hispanic American.
Code E - Native American.
Code F - Other SDB (certified/determined by SBA).
Code Z - No representation.

Item D6, Women-Owned Small Business.

Code N - Enter if the contractor's response to FAR 52.219-3 indicates the firm is not a women-owned small business.

Code Y - Enter if the response to FAR 52.219-3 indicates in the affirmative that the contractor is a women-owned small business.

Code U - Enter if the information is not available because the contractor did not complete the representation under FAR 52.219-3.

Item D7 - Small Business Innovation Research (SBIR) Program (Public Law 97-219). If Item B13 is coded 7, leave this item blank. Otherwise, enter the appropriate code as follows:

Code A - The action is not in support of a Phase I or II SBIR Program.

Code B - The action is related to a Phase I contract in support of the SBIR Program.

Code C - The action is related to a Phase II contract in support of the SBIR Program.

Item D8, Subcontracting Plan for Small Business, Small Disadvantaged Businesses or Historically Black Colleges and Universities or Minority Institutions. Enter the appropriate code as follows:

Code A - Plan Not Included - No Subcontracting Possibilities. Enter if a subcontracting plan was not included in the contract because subcontracting possibilities do not exist (FAR 19.705-2(c)).

Code B - Plan Not Required. Enter if the subcontracting plan was not required (FAR 19.702(b)).

Code C - Plan Required - No Incentive Provisions. Enter if the subcontracting plan was required but the incentive provisions referenced in FAR 19.708(c) were not included.

Code D - Plan Required - Includes Incentive Provisions. Enter if the subcontracting plan was required and incentive provisions referenced in 219.708(c)(1) or FAR 19.708(c) were included for subcontracting with small business, small disadvantaged business, historically black colleges and universities, or minority institutions.

(e) Part E, DD Form 350.

Item E1, Contracted Advisory & Assistance Services. Enter the appropriate code below:

Code Y - Enter if the action includes any Contracted Advisory and Assistance Services (CAAS) as defined in FAR 37.2.

Code N - Enter if code Y does not apply.

Item E2, Small Business Competitiveness Demonstration Program Test. (For Army, see also AFARS Part 19.10.)

(i) The Small Business Competitiveness Demonstration Program is set forth in FAR 19.10. Supplies and services subject to the program are set forth in FAR 19.1005, as supplemented (see 219.1005(b)).

(ii) If Item B13 is coded 1 through 4, or A, code this item in accordance with the instructions below.

(iii) If Item B13 is coded 5 or B through G, code this item with the same code used to report the original contract governing this action.

(iv) If Item B13 is coded 6, 7 or 8, use Code N.

Code Y - Enter this code for any action awarded to a U.S. business concern under the Small Business Competitiveness Demonstration Program for either the four designated industry groups or the 10 targeted industry categories.

Code N - Enter this code for actions other than those above.

Item E3, Small Business Size. Complete only when Item E2 is coded Y and the contract action is awarded to a small business. Enter the code of the size range that includes the size of the business as represented by the contractor.

Code	Employees	Code	Annual Gross Revenues
A	50 or fewer	M	$1 million or less
B	51 - 100	N	Over $1M - through $2M
C	101 - 250	P	Over $2M - $3.5M
D	251 - 500	R	Over $3.5M - $5M
E	501 - 750	S	Over $5M - $10M
F	751 - 1,000	T	Over $10M - $17M
G	Over 1,000	U	Over $17 million

Item E4, Emerging Small Business. Complete this item only if Item E2 is coded Y and the contracting action is for one of the four designated industry groups. Otherwise, leave blank.

Code Y - Enter this code if the contractor represents that it is an emerging small business concern.

Code N - Otherwise, enter this code.

Items E5 through E8: Reserved.

(f) Part F, DD Form 350.

Item F1, Name of Contracting Officer or Representative. Enter the name (Last, First, MI) of the contracting officer or representative.

Item F2, Signature. Contracting officer or representative.

Item F3, Telephone Number. Installations serviced by the Automatic Voice Network shall enter the AUTOVON number plus extension.

Item F4, Date. Enter date (YYMMDD) that the DD Form 350 Report is submitted.

204.671-6 Instructions for Preparing Magnetic Tape of DD Form 350 Actions, DD-P&L(M)1014. A magnetic tape as prescribed by the Office of the Deputy Assistant Secretary of Defense for Procurement will be submitted to DIOR-WHS by the DoD reporting elements specified at 204.671-4(d) to cover individual DD Form 350 transactions for each month (noncumulative). The instructions for preparing the tape are developed by DIOR-WHS with the agreement of the Departments.

204.672 Monthly Contracting Summary of Actions $25,000 or Less (DD Form 1057).

204.672-1 Scope. This section prescribes the reporting on DD Form 1057 of contracting actions of $25,000 or less. This form in conjunction with DD Form 350 is used to prepare recurring and special reports as indicated in 204.671-2. This reporting requirement has been assigned Report Control Symbol: DD-P&L(M) 1015.

204.672-2 Applicability and Coverage.

(a) A DD Form 1057 shall be prepared by each contracting office of the Department of Defense to which a reporting office code has been assigned in the DoD Procurement Coding Manual, Volume III. The DD Form 1057 shall cover all contracting actions of $25,000 or less, including any actions for which an Individual Contract Action Report (DD Form 350) may have been prepared pursuant to 204.675. Separate codes may be assigned to an installation, base, or activity by Volume III of the DoD Procurement Coding Manual in order to distinguish between various types of acquisition, such as base and central contracting, or RDT&E and non-RDT&E acquisition. Subject to the

approval of the organizations listed in 204.672-3, a machine printout or other machine product containing the information on the DD Form 1057 may be submitted in lieu of the form.

(b) DD Forms 1057 shall include all debit or credit contracting actions of $25,000 or less involving:

(1) Appropriated funds;

(2) Contract authorizations;

(3) Stock or other revolving funds which are replenished or reimbursed from appropriated funds;

(4) Appropriated funds transferred to the Departments, such as Military Assistance Program funds; and,

(5) Appropriated funds obligated pursuant to the provisions of Public Law 85-804.

(c) The report shall exclude actions of $25,000 or less which:

(1) Involve nonappropriated funds;

(2) Involve orders placed against indefinite delivery contracts entered into by the Military Sealift Command or orders for petroleum or petroleum products entered into by the Defense Fuel Supply Center or the Defense General Supply Center. These offices shall report the estimated total cost of indefinite delivery contracts;

(3) Are requisitions transferring supplies within and among the Departments and Agencies of the Department of Defense;

(4) Are orders on GSA stores depots;

(5) Involve Government bills of lading or transportation requests; or,

(6) Are for purchase of land, or rental/lease of real property where the contracting actions were executed by GSA.

(d) Actions and dollars shall be reported as indicated below:

(1) Adjustments. Revised DD Form 1057 reports shall not be submitted; but the amounts of corrections or adjustments, if required, shall be included in the report of the following month. If the correction or adjustment results in a net reduction of either action or dollar amounts, enter the symbol "-" preceding the amount to signify a credit entry.

(2) Number of Actions. Enter the number of actions being reported as follows:

(i) Only transactions that obligate or deobligate funds shall be counted. Except as provided in (B) below, each call or order under a blanket purchase agreement, basic ordering agreement, or indefinite delivery contract shall be counted as an action. If it is not possible to determine the price of an order or call when it is placed, it may be counted when the voucher is paid, but care shall be exercised to avoid double counting of such actions.

(ii) For the following transactions, each voucher paid during the report period shall be counted as one action, and no other count shall be reported. (If the voucher is in excess of $25,000, the action shall be reported on DD Form 350 rather than DD Form 1057):

(A) Meals and lodging;
(B) Automatic deliveries, such as, bread, milk, and ice cream;
(C) Headquarters, Naval Facilities Engineering Command, will submit consolidated reports on electricity and gas contracts for all Naval Shore Establishments.

(3) Dollar Value. All dollar amounts shall be entered in whole dollars. Do not enter cents. If the net amount is a decrease, enter the symbol "-" immediately preceding the amount to signify a credit entry. Do not enter parentheses.

204.672-3 Due Date and Distribution.

(a) In addition to instructions given in (b) through (f) below for contracting offices of specified Departments and Agencies, the following instructions are applicable to all contracting offices:

(1) Reports shall be submitted in time to reach the recipient within three working days after the close of each month. To meet this due date, contracting offices are authorized to cut off no earlier than the 25th calendar day of the month reported. For the month of September only, the due date may be extended by 10 additional calendar days, but the cut-off date must be no later than 30 September.

(2) Letter of transmittal is not required.

(b) Distribution of the DD Form 1057 shall be as follows:

(1) Army contracting offices, including Corps of Engineers Civil Works to:

U.S. Army Contracting Support Agency
Attn: Contract Support Office (SFRD-KS)
Room 1C642, the Pentagon
Washington, DC 20310-0103.

(2) Navy contracting offices as directed by NAVSUP-024.

(3) Air Force contracting offices as directed by SAF/AQCX.

(4) Defense Logistics Agency contracting offices as directed by HQ DLA.

(5) All other contracting offices of the Department of Defense shall forward the signed originals to the office indicated in (b)(1) above.

(c) Contracting actions of $25,000 or less which are reportable in accordance with 204.672-2 and are accomplished by contract administration offices shall be handled as follows:

(1) When the contractual instrument is being distributed, a copy shall be clearly annotated "DD Form 1057 Reporting Copy" and shall be forwarded to the appropriate contracting office listed in Appendix N.

(2) Contracting offices shall include data for such instruments in their reports on DD Form 1057.

204.672-4 Definitions. The terms used on DD Form 1057 will, in all cases, have the same meaning as they do for the purpose of preparing

DD Form 350. For the purposes of this subsection, the following terms have the meanings stated below:

"Delivery Orders - GSA Federal Supply Schedules" is restricted to orders and modifications of such orders under Federal Supply Schedules awarded by GSA.

"Delivery Orders - Other Federal Supply Schedules" is restricted to orders and modifications of such orders under Federal Supply Schedules awarded by an Agency other than GSA. Orders under DoD or civilian agency indefinite delivery contracts which are not classified as Federal Supply Schedules are to be reported as "delivery orders - all others."

"Delivery Orders - All Other" includes orders under basic ordering agreements, orders under indefinite delivery contracts, and modifications of such orders.

"Other Contracting Actions" includes actions using other procurement methods not reported above, such as large purchases, tasking orders, job orders and modification of such actions.

"Small Purchase Procedures" as defined in FAR Part 13 includes: Purchase Orders; Orders under Blanket Purchase Agreements; Modifications to small purchase actions.

"Tariff or Regulated Industry" means an industry in which rates are fixed or adjusted by a Federal, State or other public regulatory body.

"United States and Outlying Areas" includes American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, the Trust Territory of Palau, Puerto Rico, the U.S. Minor Outlying Islands and the Virgin Islands of the U.S.

204.672-5 Instructions for Completion of the DD Form 1057.

(a) Section A, General Information.

Line A1 - Month Ending. Enter the year, month and day indicating the ending date of the month reported. Enter each segment as a 2-digit number using 01 through 12 for January through December. For example, for the month ending 30 April 1989, enter 890430.

Line A2 - Contracting Office and Mailing Address. Enter sufficient detail to establish the identity of the contracting office submitting the report.

Line A3 - Reporting Office Code. Enter the code assigned to the contracting office pursuant to Volume III of the DoD Procurement Coding Manual. This is the same code that is used for Item A3 of DD Form 350.

(b) Section B, Contracting Actions. The entries for Lines B1 through B7E include new awards and modifications. For Lines B3 through B6, enter the total number of actions and total dollar value of actions and also complete each subcategory shown.

Line B1 - Tariff or Regulated Acquisitions, Total. Enter on Line B1 the number and dollar value of actions reportable as tariff or regulated industry actions (sole source and service rates are fixed or adjusted by a Federal, State or other public regulatory body).

Line B2 - Contract for Foreign Government or International Organization. Enter the total number of actions and total dollar value of actions where the foreign government or international organization bears any part of the cost of the action. Report any actions placed directly with a foreign government on this line, e.g., base maintenance performed with the foreign government acting as the contractor. Also report any actions placed directly with another Federal Agency on this line.

Line B3 - Small Business Firms. Enter the total number of actions and total dollar value of actions which were placed with Small Business concerns and the place of performance was in the "United States and Outlying Areas" as defined in 204.672-4. Also enter the total number of actions and total dollar value of actions corresponding to the following subtotals:

Line B3A - Small Purchase Procedures.
Line B3B - Delivery Orders - GSA Federal Supply Schedules.
Line B3C - Delivery Orders - Other Federal Supply Schedules.
Line B3D - Delivery Orders - All Other.
Line B3E - Other Contracting Actions.

Line B4 - Large Business Firms. Enter the total number of actions and total dollar value of actions which were placed with Large Business concerns and the place of performance was in the "United States and Outlying Areas" as defined in 204.672-4. Also enter the total number of actions and total dollar value of actions corresponding to the following subtotals:

Line B4A - Small Purchase Procedures.
Line B4B - Delivery Orders - GSA Federal Supply Schedules.
Line B4C - Delivery Orders - Other Federal Supply Schedules.
Line B4D - Delivery Orders - All Other.
Line B4E - Other Contracting Actions.

Line B5 - Domestic and Foreign Entities Performing Outside the "United States and Outlying Areas". Enter the total number of actions and total dollar value of actions which were placed with Domestic and Foreign entities and the place of performance was outside the "United States and Outlying Areas" as defined in 204.672-4. Also enter the total number of actions and total dollar value of actions corresponding to the following subtotals:

Line B5A - Small Purchase Procedures.
Line B5B - Delivery Orders - GSA Federal Supply Schedules.

Line B5C - Delivery Orders - Other Federal Supply Schedules.
Line B5D - Delivery Orders - All Other.
Line B5E - Other Contracting Actions.

Line B6 - Educational, Nonprofit and Other Entities. Enter the the total number of actions and total dollar value of actions which were placed with entities not listed in 204.672-4 such as educational, not-for-profit and nonprofit institutions and the place of performance was in the "United States and Outlying Areas" as defined in 204.672-4. Also enter the total number of actions and total dollar
value of actions corresponding to the following subtotals:

Line B6A - Small Purchase Procedures.
Line B6B - Delivery Orders - GSA Federal Supply Schedules.
Line B6C - Delivery Orders - Other Federal Supply Schedules.
Line B6D - Delivery Orders - All Other.
Line B6E - Other Contracting Actions.

Line B7 - Total Contracting Actions. Enter the total number of actions and total dollar value of actions reported in lines B1 through B6 above. Do not include the sublines from B3 through B6 in this total line. If directed by agency procedures, also enter the total number and total dollar value of actions corresponding to the following subtotals:

Line B7A - Small Purchase Procedures.
Line B7B - Delivery Orders - GSA Federal Supply Schedules.
Line B7C - Delivery Orders - Other Federal Supply Schedules.
Line B7D - Delivery Orders - All Other.
Line B7E - Other Contracting Actions.

Line B8 - Total Modifications Excluding Small Purchase Procedures. Enter the total number of actions and total dollar value of modification actions. This includes modifications to delivery delivery orders and other contract actions which may be included elsewhere in Part B.

(c) Section C, Extent Competed. (Note: Actions reported in Lines B1 and B2 are not reported in Section C.) Enter the total number of actions and total dollar value of actions in the appropriate category below based on the following criteria:

(1) Line C1 "Competed". Except when the conditions in paragraph (c)(2) apply, use when any of the following conditions apply:

(i) Actions not subject to CICA (see FAR 6.001) where at least two quotations or offers were received;

(ii) Small Business-Small Purchase Set-Asides over $1,000;

(iii) Competitive procedures were used to fulfill the requirement for full and open competition (FAR 6.1);

(iv) Full and open competition was provided for after exclusion of sources, in order to establish/maintain alternative sources or to set aside a procurement for small business or labor surplus area concerns (FAR 6.2);

(v) Statutory authorities for other than full and open competition were used (FAR 6.3) and more than one offer was received (Note: Any procurement authorized or required by statute to be awarded to a specified source, e.g., UNICOR, Sheltered workshops, Government printing or binding, 8(a) awards, brand name commercial products for authorized resale, or awards to regulated monopolies for utilities are excluded from competition and should be reported on Line C2 below);

(vi) Contract action resulted from a contract awarded competitively prior to CICA (including two-step formal advertising); or

(vii) Delivery orders/modifications under a Federal Supply Schedule.

(2) Line C2 "Not Available For Competition". Use when any of the following conditions apply to the award: (Note: DoD competition reports also include awards to regulated monopolies, FMS awards/International Agreements and actions with another Agency in the category of "Not Available for Competition", but are not reported in Line C2.)

(i) Brand name commercial products for authorized resale;

(ii) Procurements authorized or required by statute to be awarded to a designated source. This includes a contract awarded to the Small Business Administration (SBA) pursuant to Section 8(a) of the Small Business Act (see FAR 19.8);

(iii) Awards, or modifications thereto, made pursuant to FAR 13.106(a) Purchases not over $1,000; or

(iv) Other contract actions where the Deputy Assistant Secretary of Defense, Procurement (DASD(P)) has determined that there is no opportunity for competition.

(3) Line C3 "Not Competed". Complete when Lines C1 or C2 do not apply.

Line C1 - Competed, Total. Enter the total number of actions and total dollar value of actions which were competed. Also enter the total number of actions and total dollar value of actions corresponding to the following subtotals:

Line C1A - Small Business Concerns.

Line C1B - Large Business Concerns.

Line C1C - Domestic or Foreign Entities Performing outside the "United States and Outlying Areas".

Line C1D - Educational, Nonprofit and Other Entities.

Line C2 - Not Available for Competition, Total. Enter the total number of actions and total dollar value of actions which were not available for competition. Also enter the total number of actions and total dollar value of actions corresponding to the following subtotals:

Line C2A - Small Business Concerns.

Line C2B - Large Business Concerns.

Line C2C - Domestic or Foreign Entities Performing Outside the "United States and Outlying Areas".

Line C2D - Educational, Nonprofit and Other Entities.

Line C3 - Not Competed, Total. Enter the total number of actions and total dollar value of actions which were not competed. Also enter the total number of actions and total dollar value of actions corresponding to the following subtotals:

Line C3A - Small Business Concerns.

Line C3B - Large Business Concerns.

Line C3C - Domestic or Foreign Entities Performing outside the "United States and Outlying Areas".

Line C3D - Educational Institutions, Nonprofit and Other Entities.

(d) Section D, Research, Development, Test and Evaluation Actions. Enter the number and dollar value of actions for research, development, test and evaluation work on the Lines D1 through D5 as appropriate. Do not include purchases of supplies or services that are incidental to the fulfillment of RDT&E work but do not require contractor RDT&E performance.

Line D1 - RDT&E Awarded to Small Business Concerns

Line D2 -RDT&E Awarded to Large Business Concerns.

Line D3 - RDT&E Awarded to Domestic or Foreign Entities Performing Outside the "United States and Outlying Areas".

Line D4 - RDT&E Awarded to Historically Black Colleges and Universities or Minority Institutions.

Line D5 - RDT&E Awarded to Other Entities. Enter awards to other entities such as educational, nonprofit or not-for-profit institutions which were not reportable above.

(e) Section E, Selected Socioeconomic Statistics. Enter the total number of actions and total dollar value of actions on the appropriate lines below:

Line E1 - Small Business Set-Aside Actions. Enter the total number of actions and total dollar value which were small business set-aside actions. If the action is an emerging small business set-aside, use the most appropriate subline. Also enter the total number and total dollar value of actions corresponding to the following subtotals:

Line E1A - Small Business-Small Purchase Set-Aside. Enter actions pursuant to FAR 13.105.

Line E1B - Small Business Set-Asides. Enter actions pursuant to FAR 19.502, as supplemented.

Line E1C - Combined Small Business/Labor Surplus Area Set-Asides. Enter actions pursuant to 219.502-70.

Line E2 - Small Disadvantaged Business Actions. Enter the total number of actions and total dollar value which were small disadvantaged business actions. Also enter the total number of actions and total dollar value associated with each of the SDB categories shown below:

Line E2A - Section 8(a). Enter actions with the Small Business Administration (SBA) pursuant to Section 8(a) of the Small Business Act (FAR 19.8).

Line E2B - SDB Set-Aside or SDB Preference. Enter actions resulting from Total Small Disadvantaged Business Set-Aside pursuant to 219.502-72 or actions resulting from application of an SDB evaluation preference (see 219.7002); or SDB preferential consideration (see 219.502-3(S-70)).

Line E2C - Small Business-Small Purchase Set-Aside. Enter actions pursuant to FAR 13.105 where award is to an SDB without the application of a preference.

Line E2D - Small Business Set-Aside. Enter actions pursuant to FAR 19.502, without a preference or preferential consideration to an SDB, but where the award is to an SDB.

Line E2E - Other awards made to SDB concerns.

Line E3 - Women-Owned Small Business. Enter total actions and total dollars made to women-owned small businesses.

Line E4 - Historically Black Colleges and Universities or Minority Institutions (HBCUs/MIs). Enter the total actions and total dollars made to an HBCU/MI pursuant to 226.7004.

Line E5 - Sheltered Workshop. Enter total actions and total dollars made to a workshop for the blind or a workshop for the severely handicapped from the procurement list pursuant to FAR 8.7.

Line E6 - Labor Surplus Area Set-Aside. Enter total actions and dollars made pursuant to 220.7003 or FAR 20.2. Do not include awards reported in Line E2C as a combined small business/labor surplus area set-aside.

(f) Section F - Small Purchase Procedures - Dollar Value Ranges. Enter the total number of small purchase procedure actions and total dollar value in the appropriate category shown below.

Line F1 - $0.01 - 1,000.00.
Line F2 - $1,000.01 - 2,500.00.
Line F3 - $2,500.01 - 10,000.00.
Line F4 - $10,000.01 - 25,000.00.

(g) Section G - Remarks and Authentications.

Line G1 - Remarks. Enter any remarks applicable to this report.

Line G2 - Contracting Officer.

Line G2A - Contracting Officer's Name. Enter the typed name (Last, First, Middle Initial) of the contracting officer or duly authorized representative.

Line G2B - Contracting Officer's Signature. Enter the signature of the person identified in line G2A above.

Line G2C - Telephone Number. Enter the telephone number (and area code) of the person identified in line G2A above.

Line G3 - Date Report Submitted. Enter the date submitted as year, month and day in 2-digit numeric segments (YYMMDD). For example, enter 2 January 1999 as 990102.

204.672-6 Instructions for Preparing Magnetic Tape of DD Form 1057 Actions, DD-P&L(M)1015. A magnetic tape as prescribed by the Office of the Deputy Assistant Secretary of Defense for Procurement will be submitted to DIOR-WHS by the Departments to cover DD Form 1057 transactions for each month (noncumulative). The instructions for preparing the magnetic tape are developed by DIOR-WHS with the agreement of the Departments.

204.673 Record of Weighted Guidelines Method Application (DD Form 1547).

204.673-1 Purpose. The DD Form 1547 is the principal source document for maintaining a DoD-wide management information system on profit and fee statistics, as required under DoD Instruction 7730.27, "Reporting of Planned and Negotiated Contract Profit Rates" (see 215.970). The management information system is extensively used within the Office of the Secretary of Defense to serve a wide variety of purposes ranging from evaluating profit and fee policies to responding to information requests received from all Branches of the Government, Congress, and the public.

204.673-2 Responsibilities. The Heads of the Military Departments shall develop the necessary policies, procedures, and internal controls for implementing this reporting system. The contracting officer is responsible for properly preparing the DD Form 1547 and forwarding a copy of it to the designated office within 30 calendar days after the date of contract award. The contracting officer is also responsible for the correction of any erorrs detected by the system's auditing processes.

204.673-3 Applicability. For the field contracting offices specified below, a copy of the completed DD Form 1547 shall be forwarded to the office designated for all contract actions valued $500,000 or more where the contracting officer employed either the Weighted Guidelines Method (215.970), an alternate structured approach (215.971), or the Modified Weighted Guidelines Method (215.972). Offices located outside the United States, its possessions, and Puerto Rico are exempt from this reporting requirement.

(a) Army: Contracting officers from all field contracting offices shall forward completed DD Forms 1547 directly to the Office of the Assistant Secretary for Research, Development and Acquisition (SARD-KS), Washington, DC 20310-0600 or through intermediate office shown below:

(1) For Army Materiel Command field contracting offices, send through Army Materiel Command, ATTN: AMCPP-SC, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001; and

(2) For U.S. Army Corps of Engineers contracting offices, send through Office of the Chief of Engineers, HQDA (DAEN-PRP), Washington, DC 20314-1000.

(b) Navy:

(1) Contracting officers from the contracting offices specified below and all subordinate field offices shall forward completed DD Forms 1547 to the office designated in (b)(2):

(i) Naval Air Systems Command;
(ii) Naval Sea Systems Command;
(iii) Space and Naval Warfare Systems Command;
(iv) Naval Facilities Engineering Command;
(v) Naval Supply Systems Command;
(vi) Office of Naval Research;
(vii) Headquarters, United States Marine Corps; and
(viii) Strategic Systems Project Office.

(2) Designated Office: Commander, Naval Supply Systems Command (SUP 024B), Washington, DC 20376.

(c) Air Force:

(1) Contracting officers from all field contracting offices in the Air Force Systems Command and Air Force Logistics Command shall forward completed DD Forms 1547 to HQ AFLC/LMSC/SORS, Wright-Patterson Air Force Base, Ohio 45433.

204.673-4 Procedures.

(a) All elements of the DD Form 1547 shall be completed by the contracting officer as instructed in 215.970-2, 215.971-3, and 215.972-2.

(b) Completed forms shall be sent to the designated office, as an unclassified document, within 30 days after contract award. Classified information shall not be entered into the management information system on profit. The designated office will perform the necessry audit tests to ensure that the information on the DD Form 1547 is accurate. Use of mechanized or automated systems is desirable.

(c) The designated offices shall transmit the DD Form 1547 information in the manner and format specified in DoD Instruction 7730.27.

(d) The reporting requirements of this part have been assigned RCS: P&L(Q) 1751.

204.674 Overseas Distribution of Defense Subcontracts (DD Form 2139).

204.674-1 Definition.

"Country of Origin", as used in this section, means the country where the actual producer of supplies or provider of services is located.

204.674-2 Purpose. To assist DoD monitoring of the volume, type, and nature of subcontracts with foreign sources the clause at 252.204-7005 requires prime contractors and first-tier subcontractors to report (using DD Form 2139) those subcontracts or modifications thereof exceeding $25,000 where the country of origin is outside the United States, its territories and possessions.

204.674-3 Contract Clause. The contracting officer shall insert the clause at 252.204-7005, Overseas Distribution of Defense Subcontracts in any contract for other than commercial items which is expected to exceed $500,000, or when any modification increases the amount of a contract to more than $500,000. In the latter case, the reporting requirement will not be retroactive so as to require the reporting of subcontracts awarded prior to the modification. This clause shall not be inserted in contracts for ores, natural gas, utilities, petroleum products and crudes, timber (logs) and subsistence.

204.675 Individual Contract Reporting of Actions $25,000 or Less in the Four Designated Industry Groups Under the Small Business Competitiveness Demonstration Program.

204.675-1 General. The four designated industry groups in the Small Business Competitiveness Demonstration Program are set forth in FAR 19.1005(a). For the procurement of a service in any of the four designated industry groups (for Army, includes dredging), the Small Business Competitiveness Demonstration Act of 1988, Public Law 100-656, requires reporting of each award of $25,000 or less in the same manner as if the purchase were in excess of $25,000.

204.675-2 Procedures.

(a) During the term of the Program, each contracting action obligating or deobligating $25,000 or less for services within any of the four designated industry groups shall be reported on an Individual Contract Action Report (DD Form 350) except as indicated in 204.671-3(d).

(b) This requirement is in addition to the reporting requirement at 204.672, Monthly Contracting Summary of Actions $25,000 or less (DD Form 1057).

204.675-3 Instructions for Completion of the DD Form 350.

(a) Except as noted in (b) and (c) below, complete the DD Form 350 in accordance with the instructions at 204.671-5.

(b) Leave Items B4, B5B, B5E, B5F, B5G, B10, B11, B12B, B12C, C4, C6, C11, C12, D2, D3, D4E, D5, D7, D8 and E1 blank. Leave Items C8 and C9 blank when small purchase procedures are used.

(c) Contracting actions using small purchase procedures shall code the following items as shown below. (These codes do not appear on the DD Form 350).

Item B13, Kind of Contract Action.

Code 9 - Small Purchase Procedures. Enter this code to report an action using small purchase procedures as defined in FAR Part 13.

Item D4A, Type of Small Business Set-Aside.

Code Y - Enter this code if the action resulted from an Emerging Small Business Set-Aside (219.1070-2).

Code Z - Small Business-Small Purchase Set-Aside. Enter this code if the acquisition was reserved exclusively for small business concerns pursuant to FAR 13.105.

PART 208--REQUIRED SOURCES OF SUPPLIES AND SERVICES
SUBPART 208.70--COORDINATED ACQUISITION

208.7000 Applicability. Although the Department of Defense Coordinated Acquisition Program includes items assigned to one or more of the Departments or the General Services Administration for integrated materiel management, the procedures set forth in this subpart apply to items assigned for purchase responsibility only, and not to those in the integrated materiel management program. The latter items will be obtained in accordance with current supply procedures.

208.7001 Definitions. As used in this subpart, the following terms have the meanings set forth below.

"Acceptance of MIPR" means DD Form 448-2 (Acceptance of MIPR) executed by an Acquiring Department as notice to the Requiring Department that a MIPR has been received and accepted for contracting action.

"Acquiring Department" means the Department, Agency, or the General Services Administration which is assigned the responsibility for satisfying a purchase request.

"Coordinated acquisition" means (a) acquisition by contracting activities, within the 48 contiguous States and the District of Columbia, of certain supplies to satisfy the requirements (including overseas requirements) of all Departments in compliance with assignment responsibilities set forth in Subpart 208.71; (b) procurement assignments made by the respective Unified Commanders in Alaska, Hawaii, and outside the United States, regardless of funds utilized; and (c) acquisition assignments made in accordance with 208.7018. It does not include acquisitions made in Alaska, Hawaii, or outside the United States which do not fall within (a) or (b) above.

"Direct citation acquisition (Category II Method of Funding)" means an acquisition having separate identification of the items and citing the funds of the Requiring Department, and may be accomplished by combining the requirements of two or more Departments under one contract with separate schedules showing the quantities, prices, dollar amounts, and citation of funds of each Requiring Department, or by placing separate contracts for each department.

"Integrated materiel management items" means items assigned to one Department or the General Services Administration for entire Department of Defense management. Such management normally includes responsibility for computation of requirements, funding, budgeting, storing, issuing, cataloging, standardizing and contracting functions.

"Military service managed items" means items which are within Federal Supply Classes assigned to the Defense Logistics Agency or the General Services Administration but which are retained for supply management by the Requiring Department.

"Purchase request" means the following types of authorized purchase requisitions: (a) Military Interdepartmental Purchase Request (MIPR) (DD Form 448); and (b) Requisition for Coal, Coke, and Briquettes (DD Form 416).

"Reimbursable acquisition (Category I Method of Funding)" means the acquisition of supplies for a Requiring Department on a contract funded by the Acquiring Department, without separate identification of the items or separate citation of funds of the Requiring Department, with subsequent delivery to and reimbursement by the Requiring Department.

"Requiring department" means the Department originating a requisition or purchase request for supplies.

208.7002 Responsibilities Under Coordinated Acquisition. The Acquiring Department is generally responsible for the following under coordinated acquisition:

(a) Operational phases of acquisition planning (phasing the submission of requirements, consolidating or dividing requirements, analyzing the market, and determining patterns for the phased placement of orders in such a manner as to assure meeting the needs of the Requiring Departments at the lowest possible price to the Government, and at the same time avoiding unnecessary peaks and valleys of production);

(b) Purchasing.

(c) Performing or arranging through a contract administration office for contract administration, including followup and expediting of inspection and transportation; and

(d) Acquisition of licenses under patents or other proprietary rights covering the subject matter of the acquisition and the settlement of patent infringement claims arising out of the acquisition; approval of the Departments whose funds are to be charged for acquisition of licenses or settlement of claims shall be obtained.

208.7003 General Principles Governing Implementation of Acquisition Assignments.

208.7003-1 Reserved.

208.7003-2 Relationship Between Research and Development and Coordinated Acquisition. Items are not subject to procurement assignment until they have reached the production stage.

208.7003-3 Small Dollar Value Purchases. Requirement of small dollar value shall be acquired in accordance with the provisions of the approved implementing procedures covering the particular assignment.

Such implementing procedures shall normally provide a small dollar limitation of $2,500; however, in special situations, the limit may vary depending upon the commodity area and may be expressed either in a higher or lower dollar value, by tonnage, less-than-carload lot quantities, or other units, as appropriate. Such implementing procedures shall clearly state that requirements of a value or quantity less than the prescribed limitations shall, wherever feasible, be acquired by the Requiring Department. A MIPR for a military type item need not contain such a notation. The Acquiring Department shall not return a MIPR submitted in accordance with the foregoing, but shall procure such items.

208.7003-4 Emergency. In case of emergency, when the exigencies of the situation will not permit the delay incident to following the normal channels of coordinated acquisition, purchases may be made without the prior authorization of the Acquiring Department. When an emergency purchase is made, one copy of the contractual instrument, bearing or accompanied by a statement of the emergency, shall be transmitted promptly to the contracting activity of the Acquiring Department (the coordinated acquisition assignee). The provisions of this paragraph will not normally be used for stock replenishment. These emergency procedures do not apply to the purchase of integrated materiel management items as described by 208.7001. Emergency purchase of such items is covered by 208.7101-2(d).

208.7003-5 Department of Defense Manufacturing Establishment. When acquisition assignments have been made for items required by manufacturing establishments of the Departments, these items shall be obtained through the facilities of the Acquiring Department unless such action will unduly hinder or delay production. When acquisitions are made other than through the Acquiring Department, one copy of the contractual instrument bearing or accompanied by a statement of the circumstances necessitating such acquisition shall be transmitted promptly to the contracting activity of the Acquiring Department. This paragraph is not applicable when purchases are made pursuant to 208.7003-3 above.

208.7003-6 Consolidation of Requirements. The primary objective of coordinated acquisition is to obtain for the Government maximum economy through the consolidation of requirements and the elimination thereby of competitive purchases among the Departments. The Acquiring Department shall, to the extent consistent with the delivery schedule of the Requiring Department, consolidate in one contract its own requirements for the same or similar items plus all requirements via MIPRs or other purchase requests.

208.7004 Items in Short Supply. When shortages develop in the market for supplies being purchased and requirements have been submitted by more than one Department, the normal procedure shall be to resolve the problem on a Departmental level between or among the Departments based on priorities for the supplies. If agreement cannot be reached, the subject shall be referred to the Deputy Assistant Secretary of Defense (Logistics) for decision.

208.7005 Transfer of Uncompleted Contracts.

208.7005-1 Effect of Assignment of Acquisition Responsibility. As a general rule, when the acquisition responsibility for a commodity or class of commodities is assigned to one Department, or the General Services Administration, uncompleted contracts of any other Department, or the General Services Administration, for any commodity or class of commodities will not be transferred but will continue to be administered by the Acquiring Department or Defense Contract Administration Services as appropriate.

208.7005-2 Contracting Officers Under Transferred Contracts. In the case of any contract transferred, or to be transferred, to any Department, the successor to the contracting officer for each such contract shall be the Head of the Acquiring Activity (or any contracting officer thereof) to which the administration of any such contract is assigned, and any such successor shall have all of the rights and responsibilities of a contracting officer under such transferred contract.

208.7006 Purchase Authorization.

208.7006-1 MIPRs or Other Authorized Purchase Requests.

(a) Military Interdepartmental Purchase Requests (MIPRs) or other authorized purchase requests when received by the Acquiring Department shall be the authority to acquire the supplies or nonpersonal services in accordance with single department acquisition assignments or agreements between the Departments concerned as provided in 208.7018. The Acquiring Department is authorized to create obligations against the funds cited in a MIPR without further referral to the Requiring Department. The Acquiring Department has no responsibility to determine the validity of a stated requirement in an approved MIPR; however, it should bring apparent errors in the requirement to the attention of the Requiring Department.

(b) When purchase requests other than MIPRs (see 208.7001) are used as the basis for acquisition, the general procedures prescribed for processing, amending, accepting and terminating requirements on MIPRs as prescribed in other paragraphs of this subpart shall normally be followed, except as otherwise agreed to by the Departments involved.

208.7006-2 Use of Advance MIPRs.

(a) An Advance MIPR is an unfunded MIPR provided to the procuring activity in advance of the formal funded MIPR whereby initial steps in planning contract action can begin at an earlier date.

(b) Advance MIPRs may be used only when the Acquiring Department and the Requiring Department agree that the procedure may be beneficial in placing the acquisition and obtaining the requirements in a more timely manner. Blanket agreements may be used for this purpose.

(c) Advance MIPRs shall not be released to a procuring activity until proper approval of the requirement is obtained.

(d) When Advance MIPRs are used, the DD 448 shall be prominently marked "Advance MIPR."

(e) For urgent requirements, the Advance MIPR may be in the form of an electrically transmitted message.

(f) On the basis of an Advance MIPR, the Acquiring Department may take the initial steps toward establishing a contract, such as obtaining internal coordination, and preparing an acquisition plan. The extent of such action may be determined by the procuring Departments. However, contracts shall not be awarded on the basis of Advance MIPRs.

208.7006-3 Justifications and Approvals and Determinations and Findings.

(a) Coordinated procurement shall not be used by Departments to avoid FAR Part 6 requirements concerning full and open competition (see FAR 6.002).

(b) When a Requiring Department requests that an Acquiring Department obtain supplies or services by contract using other than full and open competition (see FAR 6.3):

(1) The Requiring Department shall provide:

(i) the complete certified documentation required by FAR 6.303-2(b) (which documentation shall be approved at a level within the Requiring Department equivalent to the appropriate level in FAR 6.304 prior to submitting the MIPR to the Acquiring Department);

(ii) when requested by the Acquiring Department Contracting Officer, any additional supporting data (e.g., the results of any market survey conducted or the reason why none was conducted, actions that will be taken by the Requiring Department to overcome barriers to competition in the future);

(iii) the executed Determination and Findings (D&F) specified in FAR 6.302-7(c)(1), when applicable; and

(iv) two copies of all documentation and D&F's with the MIPR or other purchase request.

(2) The Acquiring Department Contracting Officer shall prepare the justification and obtain the approval required by FAR Subparts 6.303 and 6.304.

(c) When a Requiring Department recommends that an Acquiring Department obtain supplies or services by contract using full and open competition after excluding a particular source (see FAR 6.202):

(1) The Requiring Department shall provide all data required by FAR 6.202(b)(2); and

(2) The Acquiring Department shall prepare the Determination and Findings required by FAR 6.202(b)(1).

(d) Foreign End Products. Where a foreign end product is specified by the Requiring Department, that Department is responsible for determining that a domestic source end product is not available as required by FAR 25.108 and FAR 25.302. Two copies of the determination that a domestic source end product is not available shall be furnished to the Acquiring Department with the MIPR.

208.7006-4 Delivery Schedules.

(a) In submitting MIPRs the Requiring Department should take into consideration the normal administrative lead time of the particular commodity in order to insure delivery by the date required. The time of delivery or performance is an essential element for inclusion in a contract and must be clearly stated in each MIPR. Delivery and performance schedules on MIPRs shall be designed to meet the requirements of the particular acquisition and must be realistic (see FAR 12.1). If the delivery schedule, as set forth in a MIPR, is unrealistic or cannot be accepted by the Acquiring Department, the DD Form 448-2 "Acceptance of MIPR" will be so annotated (see 208.7009-3). Changes in the requested delivery schedule shall be accomplished in accordance with 208.7008-5.

(b) When a short delivery schedule is mandatory, the MIPR shall be marked "URGENT" in bold letters. The Requiring Department's justification for the "URGENT" marking shall be stated on the MIPR or attached thereto, in order to enable the Acquiring Department to apply any necessary expediting techniques to assure the required delivery.

208.7006-5 Specifications, Drawings, and Other Purchase Data.

(a) The Requiring Department shall furnish to the Acquiring Department a list (or copies) of specifications, drawings, and other data, as appropriate, required for the acquisition. If Federal, Military, Departmental, or other specifications, or drawings or data are available to the Acquiring Department and referenced in the MIPR, they need not be furnished by the Requiring Department (but see FAR 46.407). Required changes in such purchase data shall be accomplished as set forth in 208.7008-5.

(b) The Requiring Department shall furnish to the Acquiring Department a list of all persons who have had access to proprietary or source selection information (see FAR 3.104-9(f)).

208.7006-6 Utilization of Existing Department of Defense Assets.

The Requiring Department is responsible for insuring compliance with

FAR 8.001 prior to submitting military interdepartmental purchase requests for acquisition action.

208.7006-7 Options for Increased Quantities. If the Requiring Department desires an option to purchase an additional quantity, the MIPR shall so stipulate and shall contain a justification therefor.

208.7006-8 Acquiring Used or Reconditioned Material, Former Government Surplus Property, and Residual Inventory. When used or reconditioned material, former Government Surplus Property and residual inventory is expected to be acceptable for use on a contract, the following information is to be provided by the Requiring Department in the MIPR: (a) a list of any supplies that need not be new; and (b) the basis for determining the acceptability of such supplies, which is to include an analysis of the factors at FAR 10.010(b). If the items are not acceptable for use on a contract, the Requiring Office shall note such a determination on the MIPR.

208.7007 Funds and Payments.

208.7007-1 Citation of Appropriation and Funds of Requiring Department--Category II Method of Funding. Except as provided in 208.7007-2, contracts and orders for other than integrated supply management materiel shall cite the specific fund citation(s) and the MIPR number of the Requiring Department. The Acquiring Department shall determine which type of funding (direct citation or reimbursable acquisitions) shall be used.

208.7007-2 Citation of Funds of Contracting Department--Category I Method of Funding. Under the conditions listed below, only the funds of the Acquiring Department shall be cited in the consolidated contracts; and the contracts and orders thereunder shall provide for payment by the Acquiring Department or by the Defense Contract Administration Services as appropriate:

(a) delivery is from existing inventories of the Acquiring Department;

(b) delivery is by diversion from existing contracts of the Acquiring Department which cite the funds of the Acquiring Department;

(c) production or assembly is through government work orders in Government-owned plants;

(d) allocation of production quantities among users from one or more contracts for which the identity of specific quantities of the end item to individual contracts is not feasible at the time of MIPR acceptance;

(e) acquisition of the end items involves separate acquisition of components to be assembled by the Acquiring Department;

(f) payments will be made without reference to deliveries of end

items; e.g., cost-reimbursement type contracts and fixed-price contracts with progress payment clauses; or

(g) it is not feasible and economical to use Category II method of funding.

208.7007-3 Disbursement. When the contract is funded with DoD funds and is to be administered by the Defense Contract Administration Services, the Acquiring Department shall cite as the disbursement office the Defense Contract Administration Services Region Disbursing Office (see 242.102). If the contract is not administered by the Defense Contract Administration Services, the Acquiring Department shall cite as the disbursement office the payment office designated by the Requiring Department (see 208.7008-1).

208.7007-4 Authorization for Exceeding MIPR Estimates. Each MIPR shall indicate on its face whether or not the total MIPR estimate may be exceeded by the purchasing office, and if affirmative, by what amount.

208.7008 Preparation and Use of DD Form 448 (MIPR). DD Form 448 is substantially self-explanatory. Information provided in MIPRs shall be arranged in Uniform Contract Format to the extent feasible. If desired, each Department may overprint fixed repetitive information.

208.7008-1 Special Instructions.

(a) MIPR Number. The MIPR number will consist of:

(1) The requiring agency identification code as prescribed in the DoD Activity Address Directory (DoDAAD), DoD 4000.25D;

(2) The last digit of the fiscal year; and

(3) The number of the particular MIPR (numbered consecutively by the requiring activity).

Amendments will be numbered with the MIPR number suffixed with the amendment number assigned in consecutive numbered sequence.

(b) Appropriate checks in Item 9 shall be accomplished in compliance with Department of Defense policy which requires interdepartmental screening of items in accordance with FAR 8.001 to determine stock availability within other Departments prior to preparation of a DD Form 448. Items which are determined to be available from stocks of other Departments shall be requisitioned as follows:

(1) Items within the scope of MILSTRIP (see DoD 4140.17-M (MILSTRIP) of 1 May 1964, as amended) shall be obtained by use of DD Form 1348/1348m, DoD Single Line Item Requisition System Document;

(2) Items not covered by MILSTRIP shall be obtained by use of DD Form 1149, Requisition and Invoice/Shipping Document.

If an Acquiring Department determines after receipt of a MIPR that the items can be supplied from stock, the MIPR shall be used for effecting supply from such stock.

(c) Normally a MIPR shall be restricted to one major end item, including its required spare parts, ground support equipment, and similar related items. MIPRs for other than major end items normally shall be limited to items within a single Federal Supply Classification.

(d) Attachments to MIPRs (Item 10) must be prepared in sufficient numbers so that each copy of a MIPR submitted to the Acquiring Department is complete with a copy of all attachments. "Ship To and Mark For" addresses in shipping instructions shall include the clear text identification and DoDAAD code if assigned.

(e) Item 13 is used to identify the name and address of the office to receive invoices and make payment only if the resulting contract is not to be paid by the Defense Contract Administration Services in accordance with 208.7007-3, and the office to receive invoices and make payment is known at the time of preparation of the MIPR. If payment is to be made by an office designated to receive invoices, also enter the DoDAAD code of that office. If payment is to be made by an office other than the office to which the invoice is to be mailed (Item 13), the name, address, and DoDAAD code of the payment office shall be set forth in detail as an attachment to the MIPR. If multiple offices are to receive invoices and make payment, the names and addresses of those offices shall be set forth as an attachment to the MIPR, including the DoDAAD code of each payment office. Whenever the payment office(s) is included in an attachment, an appropriate reference to the attachment will be included in Item 13. If the names and addresses of those offices are to be provided to the Acquiring Department after preparation of the MIPR, the DoDAAD code also shall be provided for each payment office.

(f) Allotment data for the acquisition of supplies shall be entered in Item 14. Allotment data for the transportation of supplies at Government expense, if cited in the MIPR in accordance with 208.7017 shall be entered in Item 12. Each citation in Item 14 shall be set forth in the appropriate space in the following manner:

(1) ACRN. If the Accounting Classification Reference Number procedures of 204.7108 are used in the MIPR to relate allotment data to the MIPR item or delivery, the ACRN for each fund citation in Item 14 shall be entered. (The Acquiring Department is not required to use in the resulting contract the ACRN assigned to a fund citation in the MIPR.)

(2) Appropriation. Will be shown in the ten positions as follows:

(i) First and second positions shall be the Treasury Department number identifying the Department or Agency to which the appropriation applies or has been transferred.

(ii) Third and fourth positions shall be the Treasury Department number identifying the Department or Agency from which an appropriation has been transferred; shall be blank if no transfer is involved.

(iii) Fifth and sixth positions shall identify the Appropriation Fiscal Year. For multiple-year appropriations, the fifth position shall be the last digit of the first year of availability and the sixth position shall be the last digit of the final year of availability. For annual appropriations, the fifth position shall be blank and the sixth position shall be the "X".

(iv) Seventh through tenth positions shall be the Treasury Department appropriation serial number.

(3) Limit/Subhead. Up to four characters; if less than four characters, leave empty spaces blank.

(4) Supplemental Accounting Classification Data. Shall not exceed 36 characters. Enter in accordance with Departmental or Agency regulations.

(5) Accounting Station. Shall show the six character DoDAAD code of the accounting station (not used with Navy and Marine Corps funds).

(6) Amount. Enter the amount for each fund citation if more than one allotment is cited.

(7) Additional Citations. If space is required for additional fund citations, they shall be set forth in the same manner as an attachment to the MIPR and a reference to the attachment will be included on the form.

(g) Requiring Activities shall provide MILSTRIP requisition data prescribed in Appendix B of the MILSTRIP Manual, for each line item which is to be delivered to each "ship to" address. Repetitive data applicable to all lines on the MIPR may be overprinted.

(h) The Requiring Activity will furnish estimated weight, cube and dimensions for each line item or a statement that such data are not available and the reasons therefor.

(i) The Requiring Activity shall include the name and telephone number of an individual who is thoroughly familiar with the MIPR, its attachments, and technical requirements.

208.7008-2 Cutoff Dates for Submission of Category II (Direct Citation) MIPRs.

(a) Unless otherwise agreed between the Departments, a cutoff date of 31 May of each year is established for the receipt of MIPRs citing expiring appropriations which must be obligated by 30 September of that fiscal year. If circumstances arise which require the submission of MIPRs citing expiring appropriations after the cutoff date, the Requiring Department will communicate with the Acquiring Department prior to submission to ascertain whether or not it will be possible for the Acquiring Department to execute a contract or otherwise obligate the funds by the end of the fiscal year. Acquiring Departments will make every effort to obligate funds for all such MIPRs accepted after the cutoff date. However, acceptance of a late MIPR does not constitute assurance by the Acquiring Department that

all such funds will be obligated. The provisions of these instructions are not to be construed as restrictive in the processing of MIPRs when it is within the capabilities of the Acquiring Department to execute contracts or otherwise obligate the funds prior to the end of the fiscal year.

(b) MIPRs citing continuing appropriations are not restricted by law to time limits for obligation; therefore, the cutoff date of 31 May is not applicable to such MIPRs and contracting action should continue regardless of whether obligation will be accomplished before or after the end of the fiscal year. However, as the timely accomplishment of obligations is a factor affecting delivery of material, every effort must be made by the Acquiring Department to obligate available funds as soon after receipt of the MIPR as is possible.

208.7008-3 Notification of Inability to Obligate. On 1 August of each fiscal year, the Acquiring Department will advise the Requiring Department of any Category II (direct citation) MIPRs on hand citing expiring appropriations on which they will be unable to obligate the funds prior to the fund expiration date. If an unforeseen situation develops after 1 August which will prevent execution of a contract, the Acquiring Department will notify the Requiring Department of that fact by the most expeditious means and return the MIPR accompanied by a letter of transmittal authorizing purchase by the Requiring Department including the reason that acquisition could not be accomplished.

208.7008-4 Number of Copies of MIPRs With Attachments To Be Submitted. Unless otherwise agreed by the Departments, the original and six copies of each MIPR, all complete with attachments, shall be forwarded to the Acquiring Department. When copies of specifications, drawings or other data are to be furnished with MIPRs (see 208.7006-5), the number of copies of such data to be furnished shall be as agreed upon by the Requiring and Acquiring Departments.

208.7008-5 Changes to MIPRs.

(a) Normally, changes that affect the contents of the MIPR must be processed as a MIPR amendment regardless of the status of the MIPR. However, a MIPR amendment for increased quantities of items specified in the original MIPR may be used when it is known that the original MIPR requirements have not been released for solicitation but then only after coordination and agreement with the Acquiring Department. Changes may be initially provided by expeditious means such as telegraphic message but shall be confirmed by a MIPR amendment. Requirements for additional line items of supplies or services not provided for in the original MIPR shall be submitted as a new MIPR.

(b) Only those items of the DD Form 448 that are applicable to the change, revision, etc., being written, which vary or deviate from the data shown on the basic MIPR or prior amendment thereto will be filled out. All other items will have "n/c" inserted to reflect no change. However, basic information in items 1 through 8 must always be shown.

(c) A MIPR amendment is not required for change of a disbursing office set forth on a DoD funded MIPR when the resultant contract is assigned for contract administration to a Defense Contract Administrative Services Region. Such change may be made by the DCASR by issuance of an administrative change order, copies of which will be provided to the Contracting Officer for transmittal to the requiring activity.

208.7008-6 Requests for Additional Funds. When the Acquiring Department requires additional funds to complete contracting actions for the Requiring Department, the request for additional funds must identify the exact items involved and the reason why additional funds are required. The Requiring Department shall take expeditious action to provide such funds by an amendment to the MIPR or to reduce requirements accordingly. In case of any anticipated delay in furnishing required additional funds, the Acquiring Department will be advised accordingly.

208.7009 Acceptance of MIPR. As soon as practicable, but not later than 30 days after receipt of a MIPR, the Acquiring Department shall formally accept the MIPR by DD Form 448-2, "Acceptance of MIPR." If this time limit cannot be met, the Requiring Department shall be informed of the reason for the delay and the anticipated date the MIPR will be accepted. In any event, Category I MIPRs must be accepted in writing by the Acquiring Department prior to the expiration of funds cited. When accepted for reimbursable acquisition, the executed DD Form 448-2 is the authority for the Requiring Department to record the obligation of funds. When accepted for direct citation acquisition, the accomplished date and a conformed copy of the contract will be the authority to record the obligation. The accepting activity of the Acquiring Department shall remain responsible for the MIPR even though that activity may split the MIPR into segments for actions among other contracting activities.

208.7009-1 Qualified Acceptance. Where contingencies, price revisions or variations in quantities are anticipated by the Acquiring Department under reimbursable acquisition, the acceptance will be so annotated on DD Form 448-2. When the acceptance is qualified, the Acquiring Department will periodically advise the Requiring Department

prior to submission of billings, of any changes in the acceptance figure so that an amendment to the MIPR may be issued by the Requiring Department and the appropriate adjustment may be made to the recorded obligation to reflect the current price.

208.7009-2 Non-Qualified Acceptance. If the acceptance of a MIPR is not qualified by the Acquiring Department for anticipated contingencies under reimbursable acquisition, the price on the acceptance will be final and will be billed at time of delivery.

208.7009-3 Preparation and Use of DD Form 448-2 (Acceptance of MIPR).

(a) DD Form 448-2 is substantially self-explanatory; however, certain details are defined below. Only pertinent items should be accomplished.

(1) Check the specific terms in Item 6 under which the MIPR is being accepted (see 208.7007-3).

(2) If any one of the MIPR line items is not accepted, Item 7 will be checked and the affected MIPR line item number and reason recorded in Item 13.

(3) Items 8 and 9 will be used only:

(i) When Item 6c acceptance is indicated (identify the MIPR line item numbers that will be provided under each method of financing in Items 8a and 9a respectively); or

(ii) If quantities or estimated costs cited in a MIPR require adjustment (the affected MIPR line item numbers will be listed together with the adjusted quantities or estimated costs in the columns provided under Items 8 and 9 as may be appropriate).

(4) Whenever a MIPR is accepted in part or in total under Category II (direct citation) method of financing, the Acquiring Department will forecast in Item 10 the approximate date that contractual placement is expected to be accomplished.

(5) Enter the total amount of funds in Item 11 required by the Acquiring Department to fund the MIPR items, as accepted.

(6) Complete Item 12 only in those cases where the amount recorded in Item 11 is not in agreement with the amount recorded in Item 5. This will serve either as (i) request on the Requiring Department to issue a MIPR amendment to provide the additional funds required, or (ii) authority for the Requiring Department to withdraw the available excess funds. When funds of two or more appropriations are involved, proper breakdown information will be provided in Item 13.

(7) Item 13 will be used to record (i) justification, by MIPR line item, for any additional funds required; (ii) explanation for rejection of MIPR whether in part or in total; (iii) appropriation and subhead data cited on the MIPR; and (iv) such other data as may be pertinent.

(b) DD Form 448-2 shall be executed for all MIPR amendments involving an adjustment of funds or delivery schedule, and in all other cases only when requested by the Requiring Department.

(c) The Requiring Department will be furnished four copies (one signed) of each accomplished DD Form 448-2 unless otherwise agreed between the Departments.

208.7009-4 Withdrawal of Funds.

(a) When the Acquiring Department accepts a MIPR for reimbursable acquisition in a lesser amount than authorized on the MIPR, the DD Form 448-2 is the authorization for the Requiring Department to withdraw the excess funds. Upon receipt of the final billing (SF 1080) and a subsequent determination that all items requested on the MIPR have been delivered and billed in an amount less than the MIPR, the Requiring Department may adjust their fiscal records accordingly without authorization from or notice to the Acquiring Department.

(b) When the Acquiring Department has accepted a MIPR for direct citation acquisition, and when all awards have been placed to satisfy the total MIPR requirement, any unused funds remaining on the MIPR become excess to the Acquiring Department. The Acquiring Department is to immediately notify the Requiring Department by submittal of a MIPR Amendment (DD Form 448-2) that these excess funds are available for recapture. This amendment is authorization for the Requiring Department to withdraw the funds. The Acquiring Department is prohibited from further use of such excess funds.

208.7010 Components of End Items.

208.7010-1 Contractor-Furnished Components. In the acquisition of end items where the contractor normally secures all components thereof from his own source (not Government-furnished), the acquisition assignment does not apply to the component items required by such contractor.

208.7010-2 Government-Furnished Components. In the acquisition of end items where the Government furnishes components which are covered by an acquisition assignment, such components shall be acquired in accordance with the acquisition assignment. However, direct purchase may be made by a Requiring Department in exceptional cases where agreement is reached with the Contracting Department or is authorized in accordance with subpart 208.71.

208.7010-3 Purchase of Components Over and Above Those Initially Purchased With the End Item. The acquisition of components covered by an acquisition assignment, over and above those initially purchased with the end item, shall be effected in accordance with the acquisition assignment. However, direct purchase may be made by a

Requiring Department in exceptional cases where agreement is reached with the Acquiring Department or is authorized in accordance with 208.7100.

208.7011 Distribution of Contracts and Orders. (See 204.202.)

208.7012 Cancellation of Requirements.

(a) Direct Citation Acquisition. When all or any part of the supplies or services requested in the MIPR are to be canceled by the Requiring Department, that Department shall so notify the Acquiring Department by telegraphic notice. In the event that the Acquiring Department has not entered into a contract for the supplies and services to be canceled, the Requiring Department shall be immediately notified to that effect. Upon receipt of such notification, the Requiring Department shall initiate a MIPR amendment to revoke the estimated amount shown on the original MIPR for the canceled items.

(1) In the event that the items to be canceled have already been placed under contract, the following procedures will apply. As soon as practicable but in any event within 45 days after receipt of the notice of cancellation from the Requiring Department, the Contracting Officer shall issue a Termination Data Letter to the Requiring Department (original and 4 copies) which will contain as a minimum the information set forth below.

SUBJECT: Termination Data Re:
Contract No._____
Termination No._____
Contract_____

TO:

(a) As termination action is now in progress on the above contract, the following information is submitted:

(1) Brief description of items terminated.

(2) You are notified that the sum of $_____ is available for release under the subject contract which sum represents the difference between $_____, the value of items terminated under subject contract, and $_____ estimated to be required for settlement of the terminated contract. The estimated amount available for release is allocated by the appropriations cited on the contract as follows:

MIPR NO._____ ACCOUNTING CLASSIFICATION_____ AMOUNT

Total available for release at this time $_____

(b) You are requested to forward an amendment to MIPR_____on DD Form 448 to reflect the reduced quantity and amount of funds available for release.

(c) Periodic examinations (not less than 60 days) will be made as termination proceedings progress to redetermine the Government's probable obligation.

_____(Signature of Contracting Officer)

(2) Periodic examinations of the termination proceedings will be accomplished no less often than every 60 days by the termination contracting officer to reassess the Government's probable obligation. If any additional funds are excess to the probable settlement requirements, or if it appears that previous release of excess funds will result in a shortage of the amount which will be required to consummate settlement, prompt action will be taken to notify the contracting office, which will amend the Termination Data Letter accordingly. A MIPR amendment to reflect the reinstatement of funds shall be processed by the Requiring Department within 30 days after the amended Termination Data Letter requesting reinstatement of funds has been received from the contracting office.

(3) If required, an amendment to the MIPR covering final removal of any remaining excess funds with respect to terminated quantities shall be prepared by the Requiring Department upon receipt of its copy of the Termination Settlement Agreement.

(b) Reimbursable Acquisition. When all or any part of the supplies or services requested in the MIPR are to be canceled by the Requiring Department, that Department shall notify the Acquiring Department by telegraphic notice. Within 30 days, the Acquiring Department shall notify the Requiring Department as to the quantity of items available for termination and the amount of funds in excess of the estimated settlement costs. Upon receipt of this information, the Requiring Department shall issue a MIPR amendment to reduce the quantities and funds accordingly.

(c) Termination by Default. When the Acquiring Department exercises authority to terminate for default (see FAR Part 49), that Department will query the Requiring Department as to whether the supplies or services to be terminated are still required so that repurchase action can be undertaken.

(1) The Requiring Department will not obligate funds on a contract terminated for default until such time as a contractual supplemental agreement of settlement or other written evidence from the Acquiring Department as to release of funds is received.

(2) On the repurchase action, the Acquiring Department will not exceed the unliquidated funds on the defaulted contract without the provisions of additional funds by the Requiring Department.

208.7013 Administrative Costs. The Acquiring Department shall bear, without reimbursement therefor, the administrative costs incidental to its acquisition of supplies for another Department. However, when an acquisition responsibility is transferred from one Department to another Department, funds appropriated or to be appropriated for defraying the administrative costs of such acquisition responsibility shall be made available to the successor Acquiring Department which shall assume budget cognizance at the earliest possible date.

208.7014 Inspection. Policies and procedures concerning inspection and acceptance for use in conjunction with this subpart are set forth in FAR Part 46.

208.7015 Execution of Contracts. Generally, the Acquiring Department shall execute a single contract where an award embodying the requirements of more than one Department is made to a single contractor.

208.7016 Status Reporting.

(a) The Acquiring Department shall maintain an appropriate system of MIPR followup so that the Requiring Department may be informed of the current status of their requests. In addition, an appropriate system of followup shall be maintained by the contract administration office so that the Acquiring Department may be currently informed as to contractor performance and in turn to insure that the Requiring Department is apprised of the status of contracts resulting from MIPRs.

(b) If requested by the Requiring Department, the Acquiring Department will furnish the Requiring Department a copy of the solicitation document for materiel management status information when the request is satisfied through the use of direct citation of funds (Category II Method of Funding).

(c) Any reimbursement billings, shipping documents, contractual documents, project orders or related documentation furnished to the Requiring Department will identify the Requiring Department's MIPR number, quantities of items, and funds covered thereby.

208.7017 Transportation of Supplies. The Requiring Department is responsible for advising the Acquiring Department or the Transportation Officer in the Contract Administration Office, as appropriate, the appropriate fund account chargeable for transportation costs in effecting delivery of supplies at Government expense. The Requiring Department shall accomplish this by either citing the fund account on each MIPR or providing the appropriate fund account to the Transportation Officer of the office administering the contract, at the commencement of each fiscal year, for citation on the Government bill of lading. In every instance, the Government bill of lading, which is generally issued by the Transportation Officer in the responsible Contract Administration Office, shall show the Requiring Department as the Department to be billed, and the appropriate fund account designated by that Department.

208.7018 Acquisition Agreements.

(a) This paragraph establishes policy as authorized in 10 U.S.C. 2308 with regard to agreements between the Departments or other agencies for acquisition of commodities or services not assigned in accordance with 208.71.

(b) 10 U.S.C. 2308 provides that Department Heads, by agreement, may make assignments and delegations of acquisition responsibilities from one Department to another or may create joint or combined offices to exercise acquisition functions and responsibilities.

(c) Agreements may be made on either a one-time basis or a continuing basis. The submission of a MIPR by a requiring activity and its acceptance by the contracting activity of another Department, even though based on oral communication, shall establish a one-time agreement. Delegated acquisition responsibilities of a continuing nature shall be considered for coordinated acquisition assignment. However, all agreements of a continuing nature shall be formalized, implemented, and distributed among the activities concerned even though not considered suitable for coordinated acquisition assignment.

shall not involve changes in the Government's requirements or the contractor's proposal which would affect the basis for source selection. In the event that such changes are necessary, the procedures in FAR 15.606 shall be followed. The final negotiated contract must represent a reasonable probability that the Government's requirements will be satisfied at a fair and reasonable cost/fee or price.

(j) Debriefings. Formal debriefings shall be conducted after contract award, in accordance with FAR 15.1002 and 215.1002.

PART 216--TYPES OF CONTRACTS
SUBPART 216.4--INCENTIVE CONTRACTS

216.402 Application of Predetermined, Formula-Type Incentives.

216.402-2 Technical Performance Incentives. Increases in profits or fees resulting from the use of incentive provisions are made only because cost, performance, or other contractual goals or standards have been surpassed.

(S-70) Description. A contract with a performance incentive is one which incorporates an incentive to the contractor to surpass stated performance targets by providing for increases in profit or fee to the extent that such targets are surpassed, and decreases to the extent that such targets are not met. "Performance," as used in this paragraph refers not only to the performance of the article being procured, but to the performance of the contractor as well. Performance which is the minimum which the Government will accept shall be mandatory under the terms of the Completion form contract and shall warrant only the minimum profit or fee related thereto. Performance which meets the stated targets will warrant the "target" profit or fee. Performance which surpasses these targets will be rewarded by additional profit or fee. When applied to the performance of the contractor, the incentive should relate to specific performance areas of milestones, such as delivery or test schedules, quality controls, maintenance requirements, and reliability standards.

216.403 Fixed-Price Incentive Contracts.

(b)(3) Application. Separate incentive provisions may be made applicable to individual line items of a contract, e.g., when dissimilar work is best incentivized by use of separate formulas.

(c)(S-70) Quarterly Limitation on Payments Statements. The contracting officer must be satisfied that the contractor's accounting system will furnish reliable financial information for preparing the Quarterly Limitation on Payments Statement required under the clauses at FAR 52.216-16 and 17. In computing overpayments or underpayments, the contracting officer shall use the following formula when (1) actual costs for individual items delivered are not available and (2) the necessary cost data are available from an accounting system which meets the Cost/Schedule Control Systems Ctiteria.

FORMULA FOR COMPUTING OVERPAYMENT/UNDERPAYMENT

COID = Cost of items delivered

TCID = Target cost of items delivered

ACWP = Actual cost of work performed

BCWP = Budgeted cost of work performed

BMR = Budgeted management reserve

BTD = Billings to date

TEP = Total estimated price of the contract

TP = Target profit on items delivered

IP = Incentive profit on items delivered

$$COID = TCID \times \frac{ACWP}{BCWP + (BMR \times \frac{BTD}{TEP})}$$

Adjusted price = COID + TP + IP

Overpayment/Underpayment = Amount Invoiced - Adjusted Price.

216.403-2 Fixed-Price Incentive (Successive Targets).
(a)(1) This formula does not apply for the life of the contract but simply is used to fix the firm target profit for the contract. To provide an incentive consistent with the circumstances, the formula for fixing the firm target profit should reflect the relative risk involved in establishing an incentive arrangement where cost and pricing information were not sufficient to permit the negotiation of firm targets at the outset.

216.403-70 Fixed-Price Contracts With Award Fees. For the use of award fee provisions in fixed-price contracts, see 216.404-2(S-70).

216.404 Cost-Reimbursement Incentive Contracts.

216.404-1 Cost-Plus-Incentive-Fee Contracts.
(b) Application. Range of fee and the fee adjustment formula should be negotiated so as to give appropriate weight to basic procurement objectives. For example, in an initial product development contract, it may be appropriate to negotiate a cost-plus-incentive-fee contract providing for relatively small increases, or decreases in fee tied to the cost incentive feature, balanced by the inclusion of performance incentive provisions providing for significant upward or downward fee adjustment as an incentive for the

contractor to meet or surpass negotiated performance targets. Conversely, in subsequent development and test contracts, it may be more appropriate to negotiate an incentive formula where the opportunity to earn additional fee is based primarily on the contractor's success in controlling costs. With regard to the cost incentive provisions of a contract, the minimum and maximum fees, and the fee adjustment formula, should be negotiated so as to provide an incentive which will be effective over variations in costs throughout the full range of reasonably foreseeable variations from target cost. Whenever this type of contract, with or without the inclusion of performance incentives, is negotiated so as to provide incentive up to a high maximum fee, the contract also shall provide for a low minimum fee, which may even be a "zero" fee or, in rare cases, a "negative" fee.

216.404-2 Cost-Plus-Award-Fee Contracts.

(b) Application. The CPAF contract is suitable for:

(1)(S-70) Level of effort contracts for performance of services where mission feasibility is established but measurement of achievement must be by subjective evaluation rather than objective measurement; and

(b)(S-70) Weighted Guidelines. The weighted guidelines method shall not be applied to CPAF contracts with respect to either the base (fixed) fee or the award fee.

(b)(S-71) Fee. The amount of the base fee shall not exceed three percent of the estimated cost of the contract exclusive of the fee, and the maximum fee (base fee plus award fee) shall not exceed the limitations stated in FAR 15.903.

(b)(S-72)(i) Consideration may be given to (A) constituting a board to evaluate the contractor's performance and determine the amount of the award fee or recommend an amount to the contracting officer and, (B) to afford the contractor an opportunity to present matters on his own behalf.

(ii) The contract shall set forth those criteria to be used in evaluating the contractor's performance to arrive at the award fee. See examples of such criteria set forth in charts below.

(b)(S-73) Disputes. The contract shall expressly exclude from the operation of the Disputes clause any dispute over the amount of the award fee.

(c)(S-70) Limitations. The CPAF contract shall not be used as an administrative technique to avoid CPFF contracts when the criteria for CPFF contracts apply, nor shall a CPAF contract be used to avoid the effort of establishing objective targets so as to make feasible the use of a CPIF type contract.

(S-72) The CPAF contract shall not be used for procurements categorized as either Engineering Development or Operational System Development which have undergone contract definition, except that where it may be more advantageous to do so, it may be used in these

categories for individual procurements, ancillary to the development of a major weapon system or equipment, where the purpose of the procurement is clearly to determine or solve specific problems associated with the major weapon system or equipment.

(S-70) Other Application of the Award Fee Provision. In certain cases, it may be desirable to motivate and reward a contractor for management performance over and above that which can be objectively measured and incentivised under other forms of government contracts. For example, logistics support, quality, timeliness, cooperation, ingenuity, and cost effectiveness are areas under the control of management which may be susceptible only to subjective measurement and evaluation. In such cases, the "award amount" portion of the fee applicable to the CPAF contract is an ideal method for incorporation of these additional incentives into government contracts; the "base fee" or fixed amount portion would not be applicable in these procurements. When approved by the Chief of the Contracting Office, the "award amount" portion of the CPAF contract may be used in conjunction with other types and kinds of contracts for Government's benefit. An Award Review Board shall be appointed at each appropriate installation or activity. Procedures shall be established for the conduct of the evaluation. Further, the award fee provision shall not be used in conjunction with other types and kinds of contracts when the administrative effort or costs for evaluation exceed the benefits to be derived from the use of this arrangement.

EXAMPLES OF CRITERIA
(Examples on Following Pages)

PART 219--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS
SUBPART 219.2--POLICIES

219.201 General Policy.

(a) In furtherance of the Government policy of placing a fair proportion of its acquisitions with Small Disadvantaged Business (SDB) Concerns and Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs), Section 1207 of Public Law 99-661 and Section 806 of Public Law 100-180 established an objective for the Department of Defense of awarding a combined total of five percent of its total contract dollars during each of fiscal years 1987-89 to SDBs, HBCUs and MIs (see Subpart 226.70), and of maximizing the number of such entities participating in Defense prime contracts and subcontracts. It is the policy of the Department of Defense to strive to meet these objectives through the enhanced use of outreach efforts, technical assistance programs, the Section 8(a) Program, and the special authorities conveyed by Section 1207 and Section 806 (e.g., through the creation of an SDB set-aside, the use of evaluation preferences, and the use of advance payments, when appropriate under FAR Subpart 232.4). With regard to technical assistance programs, it is the Department's policy to provide SDB concerns technical assistance, to include information about the Department's SDB Program, advice about acquisition procedures, instructions on preparation of proposals, and such other assistance as is consistent with the Department's mission.

(b)(1) The Director of Small and Disadvantaged Business Utilization is responsible for the development of overall DoD small business and disadvantaged business goals and for consulting with SBA regarding the establishment of such goals.

(2) Departmental Directors of Small and Disadvantaged Business Utilization are responsible for the development of small business and disadvantaged business utilization goals for subordinate elements within their department. These goals will be further assigned by these subordinate elements as appropriate, such as engineer district offices or individual contracting divisions within a central contracting activity or major commodity command.

(3) Heads of contracting activities are responsible for the attainment of assigned small business and disadvantaged business utilization goals.

(4) Within 60 days after the conclusion of each fiscal year, the Secretaries of the Military Departments and the Directors of Defense agencies shall report to the Secretary of Defense on the extent of participation by small business concerns and disadvantaged business concerns in contracts awarded by their Department. Such report shall contain appropriate justifications for failure to meet goals established by the Office of the Secretary of Defense, as well as

actions planned to increase the rate of participation by such firms in future contract awards. The Office of the Secretary of Defense will submit information to SBA concerning any failure to meet established goals and actions to be taken to improve future performance.

(5) Departmental Directors of Small and Disadvantaged Business Utilization shall establish a program to conduct reviews at a minimum of six subordinate activities per year and forward the results of such reviews to the activity for development of a plan to overcome noted deficiencies.

(c)(3) The Department of Defense Director of Small and Disadvantaged Business Utilization is responsible only to and reports directly to the Secretary or the Secretary's designee.

(c)(9) The responsibility of the agency Director of Small and Disadvantaged Business Utilization for making recommendations as to whether a particular acquisition should be awarded under FAR Subparts 19.5, 19.8, or under one of the procedures authorized by Section 1207 of Public Law 99-661 is delegated to small and disadvantaged business utilization specialists.

(d)(1) Small and disadvantaged business utilization specialists shall be appointed by name, in writing, for contracting activities, contract administration offices, and other such offices, as the Departments consider appropriate. They shall be responsible directly to the appointing authority and shall not be subject to the direction of contracting, contract administration, or technical personnel. The appointing authority, without power of redelegation, is as follows:

(i) Army - Commanders of major commands, Commanders of major subordinate commands, and installation, post, camp, station or activity commanders. For each major command, one specialist will be appointed as the Associate Director for Small and Disadvantaged Business Utilization, reporting directly to the Commander or the second-in-command. The Associate Director will have primary responsibility for the effective implementation of the Army's small business, disadvantaged business utilization, labor surplus area and other socio-economic business programs within the Command. The Associate Director for Small and Disadvantaged Business Utilization Policy at Major Command Headquarters other than at the Army Materiel Command (AMC), Office, Chief of Engineers (OCE), Forces Command (FORSCOM), and Training and Doctrine Command (TRADOC), may be assigned on a part-time basis.

(ii) Navy - Head of a contracting activity or the official in charge of an activity having purchase authority of $10,000 or more, or in charge of a contract administration activity;

(iii) Air Force - Commander of each central contracting activity; the Wing/Base Commander of each local contracting office and the Chief of each contract administration activity. In addition, an Executive

for Small and Disadvantaged Business Utilization shall be appointed by the Commander of each Major Air Command in the United States, not mandatorily reporting directly to the Commander but having ready access to such person, who will have primary responsibility for the effective implementation of the Air Force small business, small disadvantaged business utilization and labor surplus area program(s) within the Command;

(iv) Defense Logistics Agency - Commanders of Defense Supply Centers, Commanders, Defense Contract Administration Services Regions and Commanders of other DLA contracting activities;

(v) National Security Agency - the Director;

(vi) Defense Communications Agency - the Director;

(vii) Defense Nuclear Agency - the Director;

(viii) Defense Mapping Agency - Director; directors of subordinate components;

(ix) Strategic Defense Initiative Organization - the Director.

A copy of each appointment and termination of appointment of all such specialists shall be forwarded to the appropriate Department or Agency Office of Small and Disadvantaged Business Utilization (219.201(71)). In addition to performing that portion of the specific program outlined in (2) below that is normally performed in the activity to which the specialist is assigned, the small and disadvantaged business utilization specialist shall advise the head of the activity and shall perform such additional functions as are prescribed for the specialist in furtherance of the overall small business, small disadvantaged business utilization and labor surplus area programs. A small and disadvantaged business utilization specialist shall be appointed on a full-time basis in all activities having sufficient business or program responsibility to justify such action. When the volume of contracting does not warrant assignment of a full-time small and disadvantaged business utilization specialist, an individual shall be appointed as the specialist on a part-time basis. The responsibilities of this assignment shall take precedence over collateral responsibilities.

(2) A small and disadvantaged business utilization specialist (SADBUS), appointed pursuant to the above, shall perform the following duties, as determined to be appropriate to the activity by the appointing officer or by the Departmental or Agency Director or Staff Director of Small and Disadvantaged Business Utilization. The SADBUS shall:

(i) maintain a program designed to locate capable small business, small disadvantaged business and labor surplus area business sources for current and future acquisitions, through SBA or other methods;

(ii) coordinate inquiries and requests for advice from small business, small disadvantaged business and labor surplus area business concerns on acquisition matters;

(iii) review acquisitions to insure maximum opportunity for participation by small, small disadvantaged business, women-owned, and LSA concerns, and to make recommendations for set-aside and 8(a) awards (see 219.501(c));

(iv) when small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, unless there are sufficient and valid reasons to the contrary, initiate action, in writing, with appropriate technical and contracting personnel to insure that necessary specifications or drawings of the current or future acquisitions, as appropriate, are available;

(v) review acquisition programs for possible breakout of items suitable for acquisition from small business concerns;

(vi) ensure that financial assistance available under existing regulations is offered and that requests by small business concerns for proper assistance are not treated as a handicap in the award of contracts;

(vii) participate in determinations concerning responsibility of a prospective contractor whenever small business concerns are involved;

(viii) participate in the evaluation of a prime contractor's small business, labor surplus, and small disadvantaged business subcontracting plans;

(ix) review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the small business program;

(x) assure that participation of small business concerns is accurately reported;

(xi) bring to the attention of the Department Director or Staff Director for Small and Disadvantaged Business Utilization possible contracting opportunities in labor surplus areas;

(xii) make available to SBA copies of solicitations when so requested;

(xiii) when a bid from a small business, small disadvantaged business or labor surplus area firm has been rejected for nonresponsiveness or nonresponsibility, upon request, aid, counsel and assist that firm in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards;

(xiv) participate in government-industry conferences to assist small business, small disadvantaged business and labor surplus area

concerns, including Business Opportunity/Federal Procurement Conferences, Minority Business Enterprises Procurement Seminars, and Minority Business Opportunity Committee meetings;

(xv) advise potential suppliers how they may obtain information about sealed bidding and negotiated acquisitions and that they may subscribe to the Commerce Business Daily as a source of information on proposed acquisitions;

(xvi) brief the specialist's Commander at least once quarterly concerning the status of the installation's small business, small disadvantaged business utilization and labor surplus area programs in relation to goals and objectives established by higher headquarters;

(xvii) participate in the development, implementation and review of automated contracting systems to assure that the interests of small business, small disadvantaged business and labor surplus area firms are fully considered with particular reference to FAR 19.202-4(c), FAR 19.501(c), and FAR 19.502;

(xviii) assist program managers as early as possible in the development cycle of major system acquisitions and system programs as pertains to the small business programs;

(xix) assist contracting officers in establishing criteria for and determining acceptability of small business and small disadvantaged business concerns subcontracting plans submitted by prime contractors;

(xx) assure that the installation's small business, small disadvantaged business and labor surplus area business programs are frequently publicized in the appropriate media;

(xxi) assure that the organization maintains a list of products and services which have been placed on repetitive small business set-aside;

(xxii) provide small business, small disadvantaged business and labor surplus area firms information regarding assistance available from Federal agencies such as the Small Business Administration, Office of Minority Business Enterprise, Bureau of Indian Affairs, Office of Economic Development, National Science Foundation, Department of Labor and others including state, trade, and other associations;

(xxiii) be responsible for establishing an education and training program for personnel whose duties and functions affect the activity's small business, small disadvantaged business and firms located in labor surplus areas;

(xxiv) recommend to the specialist's Commander the activity small business and small disadvantaged business utilization overall goals and goals to be placed on subordinate contracting offices;

(xxv) participate in interagency programs relating to small business, small disadvantaged business and labor surplus area matters as authorized by the Director of SADBU; and

(xxvi) advise and assist contracting officers in discharging their responsibilities by:

(A) monitoring and reviewing contractor performance to determine compliance with small and small disadvantaged business subcontracting plans;

(B) developing and maintaining records and reports that reflect such compliance or noncompliance.

(xxvii) assist contracting officers to seek and develop information on the technical competence of Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs), as defined at Subpart 226.70.

(xxviii) make recommendations to contracting officers as to whether a particular acquisition should be awarded under FAR Subpart 19.5 as a set-aside (including those involving Labor Surplus Areas), under FAR Subpart 19.8 as a Section 8(a) award, or under a procedure authorized by Section 1207 of Public Law 99-661;

(xxix) assist small business concerns in obtaining payments under their contracts, late payment interest penalties, or information on contractual payment provisions.

(S-70) Office of the Secretary of Defense Directors.

(1) Director of Small and Disadvantaged Business Utilization. The Director of Small and Disadvantaged Business Utilization is responsible for the overall management and direction of the DoD small business, disadvantaged business utilization, and labor surplus area programs and for advising the Secretary of Defense or designee in matters relating to these programs. To that end, the Director will provide guidance to the Departments and periodically review the direction and implementation of their activities in promoting contract awards to small business, small disadvantaged business, and labor surplus area concerns.

(2) Director of Small Business and Economic Utilization Policy. The Director of Small Business and Economic Utilization Policy is responsible for the establishment, implementation, and execution of DoD small business and labor surplus area programs. Negotiations with the SBA, the Office of Federal Procurement Policy, the Office of Management and Budget, and other agencies or departments outside the Department of Defense, concerning small business and labor surplus area policy, programs, and DoD goals shall be conducted by the Director of Small Business and Economic Utilization Policy or, with authorization, by representatives of the Departments. The Director of Small Business and Economic Utilization Policy, on behalf of the Director of Small and Disadvantaged Business Utilization, will provide guidance to the Departments' Directors of Small and Disadvantaged Business Utilization regarding small business and labor surplus area matters.

(3) Director of Disadvantaged Business Utilization Policy. The Director of Disadvantaged Business Utilization Policy is responsible for the establishment, implementation, and execution of the DoD socially and economically disadvantaged business utilization program. Negotiations with the Small Business Administration, the Office of Federal Procurement Policy, the Office of Management and Budget, and other agencies or departments outside the Department of Defense, concerning disadvantaged business utilization policy, programs, and DoD goals shall be conducted by the Director for Disadvantaged Business Utilization Policy or, with authorization, by representatives of the Departments. The Director of Disadvantaged Business Utilization Policy, on behalf of the Director of Small and Disadvantaged Business Utilization, will provide guidance to the Departments' Directors of Small and Disadvantaged Business Utilization regarding disadvantaged business utilization matters.

(S-71) Departmental Directors of Small and Disadvantaged Business Utilization.

(1) Each department or agency shall maintain an Office of Small and Disadvantaged Business Utilization as follows:

(i) Army - Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary of the Army, Pentagon, Washington, D.C. 20310;

(ii) Navy - Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary of the Navy, Washington, D.C. 20360;

(iii) Air Force - Director, Office of Small and Disadvantaged Business Utilization, SAF/SB, Pentagon, Washington, D.C. 20330;

(iv) Defense Logistics Agency - Staff Director, Office of Small and Disadvantaged Business Utilization, Code DLA-U, Cameron Station, Alexandria, VA 22314;

(v) National Security Agency - Director, Office of Small and Disadvantaged Business Utilization, Fort Meade, MD 20755;

(vi) Defense Communications Agency - Director, Office of Small and Disadvantaged Business Utilization, Code 260, Washington, D.C. 20035;

(vii) Defense Nuclear Agency - Director, Office of Small and Disadvantaged Business Utilization, (Code OAFR), Washington, D.C. 20305;

(viii) Defense Mapping Agency - Director, Office of Small and Disadvantaged Business Utilization, Headquarters, Washington, D.C. 20305.

(ix) Strategic Defense Initiative Organization - Director of Small and Disadvantaged Business Utilization, Headquarters, Washington, D.C. 20301-7100.

(2) Each Departmental Office of Small and Disadvantaged Business Utilization shall be managed by a Director who shall be appointed by the Secretary of the Department and shall be responsible to and report directly to the Secretary or Under Secretary of the Department. Directors of Defense agencies shall appoint a Staff Director for Small and Disadvantaged Business Utilization who shall be responsible to and report directly to the Director or the Deputy Director.

(3) The primary responsibility of the Director or Staff Director of each Office of Small and Disadvantaged Business Utilization shall be in matters concerning small business, small disadvantaged business utilization, and labor surplus areas. The Director or Staff Director advises the Secretary on small business, small disadvantaged business utilization and labor surplus area matters, implements such DoD programs within the Department or Agency and represents the Department or Agency in negotiations with other Departments or Governmental agencies on small business, small disadvantaged business utilization and labor surplus area matters. The Director or Staff Director will exercise supervisory authority over Department or Agency Small and Disadvantaged Business Utilization Specialists regarding small business, disadvantaged business utilization and labor surplus area matters. Appointment of Small and Disadvantaged Business Utilization Specialists shall be made after consultation with the Director or Staff Director of the Office of Small and Disadvantaged Business Utilization of the Department or Agency involved. In addition, such Director shall be afforded an opportunity to comment upon, and contribute to the performance evaluations of the Specialists for the contracting activities and contract administration offices or major organizational elements of the Department involved, including pay pursuant to the Civil Service Reform Act of 1978.

(S-72) Small Business Technical Advisor.

(1) The Military Departments shall assign small business technical advisors to assist each resident SBA Procurement Center Representative in the performance of the duties of the representative.

(2) A Small Business Technical Advisor (SBTA) shall be a full-time employee of the contracting activity and shall be well qualified, technically trained, and familiar with the supplies or services acquired at the activity.

(3) The principal duty of this advisor shall be to assist the SBA Procurement Center Representative in that person's duties and functions relating to Sections 8 and 15 of the Small Business Act. Providing such assistance shall take precedence over any other collateral duties that may be the responsibility of the SBTA.

219.202 Specific Policies.

219.202-1 Encouraging Small Business Participation in Acquisitions.

(S-70) Encouraging Small and Small Disadvantaged Business Participation in Acquisitions. The Departments to the extent consistent with the best interests of the Government and in order to broaden the industrial base shall:

(1) attempt to locate additional qualified small business suppliers by all appropriate methods including use of the assistance of SBA, particularly where only a limited number of small business concerns are on bidders' mailing lists;

(2) give wide publicity to contracting methods and practices;

(3) publicize proposed acquisitions by use of advance notices or other appropriate methods (see FAR 5.2);

(4) include all established and qualified potential small business suppliers on mailing lists;

(5) send solicitations to all firms on the appropriate list, except that where less than a complete list is to be used pursuant to FAR 14.205-4, at least a pro rata number of small business concerns shall be solicited;

(6) divide proposed acquisition of supplies and services, except construction, into quantities not less than economic production runs, so as to permit bidding on quantities less than the total requirements; allow the maximum time practicable for preparation and submission of bids, proposals, or quotations; where feasible, establish delivery schedules which will encourage small business participation;

(7) examine each major acquisition to determine the extent to which small business subcontracting should be encouraged or required;

(8) use small business concerns to the maximum extent feasible as planned producers in the Industrial Readiness Planning Program;

(9) maintain liaison with Federal, State (including Governor's Commissions), and local agencies and other organizations for the purpose of providing information and assistance to small business concerns; and

(10) require that contracting officers emphasize the award of contracts to SDBs in all industry categories in which SDBs have not traditionally dominated.

(11) where appropriate, hold quarterly briefings for SDBs and/or HBCUs/MIs on planned acquisitions and engage in other outreach activity such as providing information about specific programs, services and supply class items and maximizing use of sources sought synopsis to locate SDBs and HBCUs/MIs.

219.202-5 Data Collection and Reporting Requirements.

(a) Records of the total value of contracts and subcontracts placed with small business concerns during each fiscal year shall be

maintained by the use of DD Form 350 (Individual Procurement Action Report), DD Form 1057 (Monthly Procurement Summary by Purchasing Office), Standard Form 294 (Subcontracting Report for Individual Contracts), and Standard Form 295 (Summary Subcontract Report), as appropriate.

(b) The contracting officer shall insert the following format in the contract file for each award of a letter contract, a definitive contract superseding a letter contract, an initial definitive contract, orders under a BOA, and additional work under a new agreement (including options exercised at time of award) of $25,000 or greater, whenever such award is (1) the result of an SDB set-aside (219.502-72) or an HBCU/MI set-aside (226.7004), (2) based on the application of an evaluation preference for SDBs (Subpart 219.70), or (3) based on preferential consideration of SDBs (219.502-3(S-70)). When awarded based upon an SDB set-aside under 219.502-72 or an HBCU/MI set-aside under 226.7004, the amount entered in item 5 will be the fair market price determined in accordance with FAR 19.806-2. When awarded based upon preferential consideration under 219.502-3(S-70), the amount entered in item 5 will be the highest unit price for each item awarded on the non-set-aside portion, multiplied by the applicable set-aside quantity. When awarded based upon an evaluation preference under Subpart 219.70, the amount entered in item 5 will be the value of the otherwise responsive offer prior to application of the evaluation percentage.

Preference Percentage Paid on Small Disadvantaged Business (SDB) and Historically Black Colleges and Universities and Minority Institutions (HBCUs/MIs) Awards $25,000, and Over

1. Contract number _____.
2. Modification number (if appropriate) _____.
3. Award date _____.

	(whole dollars)
4. Award price (including options exercised):	_____
5. Total value of fair market price:	_____
6. Difference ((4) minus (5)):	_____
7. Premium percent ((6) divided by (5)):	_____

PART 219--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS
SUBPART 219.7--SUBCONTRACTING WITH SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

219.702 Statutory Requirements.

219.702-70 Subcontract Awards to SDBs, HBCUs and MIs. Consistent with Section 806(b)(2) of Public Law 100-180, contracting officers shall ensure that contractors required to submit subcontracting plans under FAR 52.219-9, also establish goals for subcontract awards to SDBs, HBCUs and MIs. The clause at 252.219-7009, Incentive Program for Subcontracting With Small and Small Disadvantaged Business Concerns, also provides financial incentives for subcontract awards to such entities.

219.703 Eligibility Requirements for Participating in the Program.

(a) The SBA Office of Hearings and Appeals has final authority to determine the eligibility of a concern to be designated as a small business. The contracting officer, in connection with small business subcontracting requirements, may question the prime contractor concerning a written representation of small business status, or the refusal to accept such written representation by either the prime contractor or a subcontractor, of a concern offering as a subcontractor on a particular acquisition. Other interested parties may also question such representation or refusal. If the matter(s) cannot be resolved, the contractor (prime or sub) is responsible for referring it for a size determination to the SBA Regional Office in which region the concern submitting the written representation has its principal office.

(a)(S-70) To be eligible as an HBCU or MI subcontractor under the program, such entity must be an HBCU or MI as defined at 226.7002.

(b)(S-70) A contractor may also rely on the written representation of an HBCU or MI as to its status. A list of HBCUs is published periodically by the Department of Education (see 226.7006).

219.704 Subcontracting Plan Requirements.

(a) Subcontracting plans for commercial items, as defined in FAR 52.219-9 and submitted pursuant to paragraph (g) of that clause, are exempt from the requirements of (a)(3) and (a)(S-70) below.

(a)(3) A description of those efforts the contractor plans to undertake to provide technical assistance to SDB concerns.

(a)(S-70) The subcontracting plan must address each of the requirements listed in FAR 19.704(a) as they relate to subcontracting with HBCUs and MIs. The separate percentage goal required by FAR

19.704(a)(1) concerning SDBs shall be a composite goal which includes anticipated use of HBCUs and MIs as subcontractors in addition to anticipated use of SDB concerns. (See 252.219-7000.)

219.705 Responsibilities of the Contracting Officer Under the Subcontracting Assistance Program.

219.705-1 General Support of the Program. In negotiating SDB goals, the contracting officer shall ensure that the limitations in FAR 19.705-1 are applied.

219.705-4 Reviewing the Subcontracting Plan. Any SDB goal of less than five percent of the total planned subcontracting dollars must be approved two levels above the contracting officer. This requirement does not apply to subcontracting plans for commercial products submitted in accordance with FAR 52.219-9(g) where an annual plan has already been approved.

(S-70) In reviewing the subcontracting plan to determine whether it provides the maximum practical opportunity for HBCUs and MIs to participate, the contracting officer should consider whether subcontracts are contemplated which involve research or studies of the type normally performed by higher education institutions. But see 219.704(a).

219.705-6 Postaward Responsibilities of the Contracting Officer. Upon receipt of a notice submitted in accordance with FAR 19.706(a)(5), the contracting officer shall take action necessary to enforce the terms of the contract. Such action shall include, as appropriate, issuance of cure or show cause notices, or initiation of default proceedings.

219.706 Responsibilities of the Cognizant Administrative Contracting Officer.

(a) Evaluation of Subcontract Reports. The Contract Administration Office is responsible for reviewing, evaluating, and approving master subcontracting plans. In the evaluation of subcontract reports, the SADBU Specialist shall support the Administrative Contracting Officer (ACO) in evaluating a contractor's performance and compliance with its subcontract plans. The original of the Standard Form 294, Subcontracting Report for Individual Contracts, and a copy of the Standard Form 295, Summary Subcontract Report, and reports of periodic reviews of contractor performance shall be retained by the cognizant SADBUS. These reports together with other pertinent information shall be used as a basis for advising the ACO as to contractor's compliance with subcontracting plans.

219.708 Solicitation Provisions and Contract Clauses.

(b) The contracting officer shall include the clause at 252.219-7000, Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts), in all solicitations and contracts that contain the clause at FAR 52.219-9.

(c)(1) When contracting by negotiation, except as provided in (c)(2) below, the contracting officer shall insert the clause at 252.219-7009, Incentive Program for Subcontracting with Small and Small Disadvantaged Business Concerns, Historically Black Colleges and Universities and Minority Institutions, in all solicitations and contracts that contain the clause at FAR 52.219-9. The contracting officer shall insert the clause with its Alternate I when the above criterion is met and when inclusion of a monetary incentive is, in the judgment of the contracting officer, necessary to increase subcontracting opportunities for small businesses in addition to SDBs, HBCUs and MIs (see FAR 19.708(c)(2) and (3)). When the clause at 252.219-7009 is prescribed, the clause at FAR 52.219-10 shall not be used.

(c)(2) For negotiated procurements of $10 million or more, the contracting officer may use an award fee provision, in lieu of the incentive provision required by (c)(1) above, in order to motivate and reward a contractor for exceeding established SDB, HBCU and MI subcontracting goals. Use of an award fee provision permits the contracting officer to consider the quality and amount of contractor effort put forth to meet these goals. The award fee rating plan included in the contract shall specify those factors against which the contractor's performance will be evaluated. When an award fee provision is included in a cost-reimbursement contract, total fee shall not exceed the limitations set forth in FAR 15.903(d), and the clauses at 252.219-7009 and FAR 52.219-10 shall not be used.

PART 219--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS
SUBPART 219.8--CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM)

219.801 General. The Department of Defense, to the greatest extent possible, will award contracts under the authority of section 8(a) of the Small Business Act and will actively identify requirements to support the business plans of 8(a) concerns.

219.803 Selecting Acquisitions for the 8(a) Program.

(a) Notwithstanding the DoD unique SDB procedure, requirements will be reviewed initially for suitability for inclusion in the 8(a) Program; activities will continue efforts required by FAR 19.803(a) as an added measure to meet the 5 percent goal discussed in 219.201.

(c)(S-70)(i) Except as provided in (ii) below, when the SBA requests that a requirement be reserved for award of a contract (follow-on or otherwise) under the 8(a) Program, the request shall be honored, if otherwise appropriate, and the total SDB set-aside procedure shall not be used.

(ii) An SBA request, that a new requirement be reserved for the 8(a) Program, need not be honored and a contracting officer may proceed with a total SDB set-aside if the SBA request is received after publication of a synopsis pursuant to 205.207(d)(S-72) or (S-73).

(c)(S-71) Contracting activities should respond to SBA requests for contract support within 30 calendar days after receipt. To the maximum practical extent, 8(a) concerns should be provided an opportunity to give a technical presentation to appropriate personnel within the contracting activity before a decision not to use 8(a) contracting procedures is made on the request.

PART 219--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS
SUBPART 219.10--SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

219.1005 Applicability.

(b) For DoD, the targeted industry categories are:

Standard Industrial Classification (SIC)	SIC Code
(1) Pharmaceutical preparations	2834
(2) Ammunition, except for small arms	3483
(3) Ordnance and accessories, not elsewhere classified (NEC)	3489
(4) Turbines and turbine generator sets	3511
(5) Aircraft engines and engine parts	3724
(6) Space vehicle equipment, NEC	3769
(7) Tanks and tank components	3795
(8) Search and navigation equipment	3812
(9) Communication services, NEC	4899
(10) Petroleum products, NEC	5172

(S-70) Army activities, see Army Supplement for additional requirements related to Dredging (SIC 1629, FPDS V216 - Z216).

219.1070 Procedures.

219.1070-1 Designated Industry Groups.

(a) Solicitations for acquisitions in any of the four designated industry groups issued from January 1, 1989 through December 31, 1992 that have an anticipated dollar value greater than $25,000 shall not be considered for small business set-asides under FAR Subpart 19.5 unless otherwise directed. However, acquisitions in the designated industry groups shall continue to be considered for placement under the 8(a) program (see FAR Subpart 19.8) and for small disadvantaged business set-asides (see 219.502-72).

(b) After periodic review of DoD performance, DoD may direct reinstatement of the use of small business set-asides as necessary to meet prescribed goals. Military Departments and defense agencies shall not reinstate small business set-asides unless directed by DoD.

(c) When use of small business set-asides is suspended for the four designated industry groups--

(1) The procedures under 219.501(g), and (g)(S-70) through (g)(S-73) are waived;

(2) The exceptions at 219.502-72(b)(1), (2), and (3) do not apply, and the acquisitions shall be considered for small disadvantaged business set-asides; and

(3) The evaluation preference at 219.7001 shall not be applied.

(d) The small purchase exception at FAR 19.303(a) does not apply to acquisitions under this program. All written requests for quotations shall include applicable SIC code and size standard.

219.1070-2 Emerging Small Business Set-Aside.

(a) Notwithstanding FAR 13.105, 19.5, or 19.8, acquisitions in the four designated industry groups with an estimated value of $25,000 or less shall be set aside for emerging small businesses (ESBs), provided that the contracting officer determines that there is a reasonable expectation of obtaining offers from two or more responsible emerging small businesses that will be competitive in terms of market price, quality and delivery. If no such reasonable expectation exists, the contracting officer shall proceed in accordance with FAR 13.105, FAR Subpart 19.5 or FAR Subpart 19.8.

(b) If the contracting officer proceeds with the ESB set-aside and receives a quotation from only one ESB at a reasonable price, the contracting officer shall make the award. If there is no quote from an ESB or the quote is not at a reasonable price, then the contracting officer shall cancel the ESB set-aside and proceed in accordance with FAR 13.105 or FAR Subpart 19.5.

219.1070-3 Identification and Reporting.

(a) The face of each award made pursuant to the program shall contain a statement that the award is being issued pursuant to the Small Business Competitiveness Demonstration Program.

(b) For reporting requirements, see 204.675.

219.1071 Solicitation Provisions and Contract Clauses.

(a) The contracting officer shall insert in full text the provision at 252.219-7012, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program, in all solicitations in the four designated industry groups. Where requests for quotation are solicited orally, the contracting officer shall obtain the necessary information.

(b)(1) The contracting officer shall insert in full text the provision at 252.219-7013, Notice of Emerging Small Business Set-Aside, in all solicitations and resulting contracts set aside for emerging small businesses in accordance with 219.1070-2.

(2) When using other than small purchase procedures, the contracting officer shall insert the clause at FAR 52.219-14 in all solicitations and resulting contracts set aside for emerging small businesses.

(c) In an unrestricted procurement in the four designated industry groups, the clause at 252.219-7007, Notice of Evaluation Preference for Small Disadvantaged Business Concerns, shall not be inserted.

(d) The contracting officer shall insert in full text the provision at 252.219-7014, Small Business Size Representation for Targeted Industry Categories Under the Small Business Competitiveness Demonstration Program, in all solicitations issued in each of the 10 targeted industry categories under the Small Business Competitiveness Demonstration Program that are expected to result in a contract award in excess of $25,000.

concerned. These authorities may not be redelgated. Requests for waivers will contain a full explanation of the facts supporting the waiver and will be submitted in accordance with Departmental procedures.

(c) A machine tool shall be considered to be of United States or Canadian origin, if it is manufactured in the United States or Canada and the cost of its components manufactured in the United States or Canada exceeds 50 percent of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and duty (whether or not a duty-free entry certificate may be issued).

(d) The clause at 252.225-7023, "Restriction on Acquisition of Foreign Machine Tools", shall be inserted in all solicitations and contracts that:

(1) Obligate FY 87 or subsequent funds for machine tools; or

(2) Contain FAR clause at 52.245-2, Government Property (Fixed-Price Contracts), or FAR clause 52.245-5, Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).

(e) The restriction of 225.7008 does not apply to FSCs 3405, 3438, and 3445, when only FY 87 and/or FY 88 funds will be obligated for machine tools. In such cases, the clause at 252.225-7023, "Restriction on Acquisition of Foreign Machine Tools", may be modified to delete reference to FSCs 3405, 3438, and 3445.

(f) When machine tools are the only items being procured, do not include any of the clauses at 252.225-7000, -7001, -7005, or -7006. If machine tools are not the only items being procured, include the clauses at 252.225-7000, -7001, -7005, and -7006, as appropriate.

225.7009 Restriction on the Acquisition of Aircraft Ejection Seats. Public Law 98-212 and subsequent Appropriations Acts provide that no funds appropriated for the Department of Defense may be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

225.7010 Restriction on Procurement of Certain Chemical Weapons Antidote. 10 U.S.C. 2400(b) provides that funds appropriated to the Department of Defense may not be used for the procurement of chemical weapons antidote contained in automatic injectors (or for the procurement of the components for such injectors) determined to be critical under the Industrial Preparedness Planning Program of the Department of Defense unless the following conditions are met:

(a) Such injector or component is manufactured in the United States by a company which is an existing producer under the Industrial Preparedness Program at the time the contract is awarded and which has--

(1) Received all required regulatory approvals; and

(2) Has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded; or

(b) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, determines that such procurement from a source in addition to a source described in paragraph (a) is critical to the national security.

225.7011 Reserved.

225.7012 Restriction on Acquisition of Powered and Non-Powered Valves.

(a) 10 U.S.C. 2507 provides that during fiscal years 1989, 1990 and 1991, funds appropriated or otherwise made available to the Department of Defense may not be used to enter into a contract for powered and non-powered valves in Federal Supply Classes 4810 and 4820 not manufactured in the United States or Canada which are used in piping for naval surface ships and submarines.

(b) The Head of the Agency responsible for the procurement may waive the restriction of (a) above on a case-by-case basis if he determines that any of the following apply:

(1) The restriction would cause unreasonable costs or delays to be incurred.

(2) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Satisfactory quality items manufactured in the United States or Canada are not available.

(4) The restriction would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(5) The restriction would result in the existence of only one United States or Canadian source for that item.

This authority may not be redelegated. Requests for waiver will contain a full explanation of the facts supporting the waiver and will be submitted in accordance with Departmental procedures.

(c) The restriction of paragraph (a) above has been waived for

of the solicitation and a listing of Canadian firms solicited shall be sent to the Canadian Commercial Corporation, Export Supply Centre, Ottawa, Ontario, K1A-0S6, Canada.

(iv) Upon request by the Canadian Commercial Corporation, solicitations shall be furnished to it even though no Canadian firms were solicited.

(v) Small purchases (see FAR Part 13) normally should be handled directly with Canadian firms and not through the Canadian Commercial Corporation.

(2) Submission of Offers.

(i) As indicated in 225.7104(b) below, the Canadian Commercial Corporation should normally be the prime contractor. In order to indicate its acceptance of offers by individual Canadian companies, the Canadian Commercial Corporation issues a letter supporting the Canadian offer and containing the following information: name of the Canadian offeror; confirmation and endorsement of the offer in the name of the Canadian Commercial Corporation; and a statement that the Corporation shall subcontract 100% with the offeror.

(ii) When a Canadian offer cannot be processed through the Canadian Commercial Corporation in time to meet the bid-opening requirement or the closing date for receipt of proposals, the Corporation is authorized to permit Canadian firms to submit offers directly. The Canadian Commercial Corporation endorsement must be received by the contracting officer prior to contract award.

(iii) All sealed bids shall be submitted by the Canadian Commercial Corporation in terms of U.S. currency. Contracts placed as a result of such sealed bidding shall not be subject to adjustment for losses or gains resulting from fluctuation in exchange rates.

(iv) All offers and quotations submitted by the Canadian Commercial Corporation, except those in which competition is obtained, shall be in terms of Canadian currency. However, the Corporation may, at the time of submitting the offer, elect to quote and receive payment in terms of U.S. currency; in which event, contracts arising therefrom shall provide for payment in U.S. currency and shall not be subject to adjustment for losses or gains resulting from fluctuation in exchange rates.

(b) Contracting Procedures.

(1) Individual contracts covering purchases from suppliers located in Canada, except as noted in (2) below, shall be made with the Canadian Commercial Corporation, which has offices located at the Export Supply Centre, 11 Laurier Avenue, Hull, Quebec, Canada (mail address - Canadian Commercial Corporation, Export Supply Centre, Ottawa, Ontario, K1A-0S6 Canada), and at 2450 Massachusetts Avenue, N.W., Washington, DC 20008. Contracts should normally be awarded to

and administered through the Export Supply Centre Office in Hull, and all payments under such contracts awarded to the Canadian Commercial Corporation shall be made to that office. Under contracts with the Canadian Commercial Corporation, direct communication with the Canadian supplier is authorized and encouraged in connection with all technical aspects of the contract; Provided, however, that the approval of the Corporation shall be obtained on any matters involving changes to the contract.

(2) The general policy in (1) above need not be followed for negotiated purchases for experimental, developmental, or research work unless the contract is for a project under the Defense Development Sharing Program; purchases of unusual or compelling urgency; small purchases; or purchases made by U.S. Defense activities located in the Dominion of Canada.

(3) Prices in the contracts shall identify the type of currency; i.e., United States or Canadian. When contracts provide for payment in Canadian currency, the contract price shall be quoted in terms of Canadian dollars and shall identify the amount by the initials CN; e.g., $1,647.23CN. The contract shall clearly indicate on its face the US/Canadian conversion rate at the time of award and the US dollar equivalent of the Canadian dollar contract amount.

(c) Administration Procedures.

(1) The following policy and procedures are applicable only to cost-reimbursement type contracts with Canadian contractors:

(i) On contracts with the Canadian Commercial Corporation (CCC), audits are automatically arranged by the Department of Supplies and Services (DSS) Canada (see 225.7102). Audit reports are furnished to DSS. Upon advice from DSS, the CCC will certify the invoice and forward it with Standard Form 1034 (Public Voucher) to the ACO for further processing (see 242.803(a)) and transmittal to the disbursing officer.

(ii) On contracts placed directly with Canadian firms, audits are requested by the ACO from the Audit Services Bureau (ASB), Ottawa, Ontario, Canada. Invoices are approved by the ASB/DSS auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by Standard Form 1034 (Public Voucher) are forwarded to the ACO for further processing (see 242.803(a)) and transmittal to the disbursing officer. Periodic advisory audit reports are furnished directly to the ACO.

(d) Termination Procedures. The Canadian Commercial Corporation will continue to administer contracts that may be terminated by the U.S. contracting officer and settle all Canadian subcontracts in accordance with the policies, practices, and procedures of the Canadian Government in the termination and settlement of Department of Defence Production (Canada) contracts. The U.S. agency administering

PART 226--OTHER SOCIOECONOMIC PROGRAMS
SUBPART 226.70--CONTRACTING WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES OR MINORITY INSTITUTIONS

226.7001 Scope of Subpart. This subpart implements certain provisions of Section 1207 of Public Law 99-661, and Section 806 of Public Law 100-180, which establish for DoD an objective of awarding a combined total of five percent of its total contract dollars during each of fiscal years 1987-89 to Historically Black Colleges and Universities (HBCUs), Minority Institutions (MIs), and to Small Disadvantaged Business (SDB) Concerns (see 219.201). Section 1207 also provided certain discretionary authority to the Secretary of Defense for achievement of that objective.

226.7002 Definitions.

"Historically Black Colleges and Universities (HBCUs)" means institutions determined by the Secretary of Education to meet the requirements of 34 CFR Section 608.2.

"Minority Institutions (MIs)" means institutions meeting the requirements prescribed by the Secretary of Education at 34 CFR 607.2. The term also includes any nonprofit research institution that was an integral part of an Historically Black College or University before November 14, 1986.

226.7003 General Policy. In furtherance of the Government policy of placing a fair proportion of its acquisitions with HBCUs, MIs and SDBs, Section 1207 of Public Law 99-661 and Section 806 of Public Law 100-180 established an objective for the Department of Defense of awarding a combined total of five percent of its total contract dollars during each of fiscal years 1987-89 to HBCUs, MIs and SDBs (see 219.201) and of maximizing the number of such entities participating in Defense prime contracts and subcontracts. Executive Order 12320 contains additional guidance concerning HBCUs. It is the policy of the Department of Defense to strive to meet these objectives through the enhanced use of outreach efforts, technical assistance programs, and the special authorities conveyed by these laws (e.g., through a total set-aside for HBCUs and MIs) to acquire research and studies normally acquired from Higher Education Institutions (HEIs). (For reporting requirements see 219.202-5.) With regard to technical assistance programs, it is the Department's policy to provide HBCUs and MIs technical assistance, to include information about the Department's HBCU and MI Program, advice about acquisition procedures, instructions on preparation of proposals, and such other assistance as is consistent with the Department's mission.

226.7004 Set-Asides for Historically Black Colleges and Universities and Minority Institutions.

(a) Except for acquisitions made using simplified small purchase procedures or Broad Agency Announcement procedures (but see 235.016-70), the entire amount of an individual acquisition for research, studies, or services normally acquired from HEIs shall be set-aside for exclusive participation by HBCUs and MIs if the contracting officer determines that there is a reasonable expectation that (1) offers will be obtained from at least two responsible HBCUs/MIs who can comply with the limitations on subcontracting in the clause at 252.226-7000(d), (2) award will be made at a price not exceeding fair market price (see FAR 19.806-2) by more than 10 percent, and (3) scientific and/or technological talent consistent with the demands of the acquisition will be obtained through use of a total HBCU/MI set-aside. (See FAR 35.007 with regard to technical qualifications of sources for R&D acquisitions.)

(b) If it is necessary to obtain information in accordance with paragraph (a)(1) above, the contracting officer may include a notice in the synopsis indicating that the acquisition may be set-aside for exclusive HBCU/MI participation if sufficient HBCU/MI sources are identified prior to issuance of the solicitation (see 205.207(d)(S-74)). The notice at 205.207(d)(S-74) encourages such entities to make their interest and capabilities known as expeditiously as possible.

(c) If prior to synopsis, a decision has been made to set-aside the acquisition for HBCUs and MIs, the synopsis shall so indicate (see 205.207(d)(S-75)). Similarly, if discrete or severable areas of research interest contained in a Broad Agency Announcement have been set-aside for HBCUs and MIs, the synopsis shall so indicate (see 205.207(d)(S-76)). In this regard, Section 806 of Public Law 100-180 requires that a procurement which is likely to be set-aside for HBCUs/MIs be designated as such before a solicitation is issued, to the maximum extent practicable.

226.7005 Methods of Conducting Set-Asides. Set-Asides for HBCUs/MIs will normally be conducted by using competitive proposals (see FAR 35.006; also see 235.016-70 regarding partially setting aside acquisitions when using Broad Agency Announcement procedures).

226.7006 Eligibility of Offeror.

(a) To be eligible for award under the preference procedures of this subpart, an offeror must, at time of submission of its offer and contract award, be an HBCU or an MI as defined at 226.7002 and provide the contracting officer with evidence of such status upon request (see paragraph (c) of the clause at 252.226-7000). A List of HBCUs is published periodically by the Department of Education and may be obtained from the contracting activity's SADBUS. The contracting officer's determination of eligibility shall be final.

PART 232--CONTRACT FINANCING
SUBPART 232.5--PROGRESS PAYMENTS BASED ON COSTS

232.501 General.

232.501-1 Customary Progress Payment Rates.

(a) The customary progress payment rate applicable to DoD contracts awarded to large businesses is 75 percent and 80 percent for small businesses if the contracts are funded with FY 87 appropriations. The customary progress payment rate for all other DoD contracts is 80 percent for large businesses and 85 percent for small businesses. If a contract is funded with FY 87 and other fiscal year appropriations, the contracting officer may either (1) apply the progress payment rate applicable to FY 87 appropriations to all line items in the contract; or (2) apply the rate applicable to FY 87 appropriations to only those line items funded with FY 87 appropriations and apply the higher rate to all other line items. However, if multiple progress payment rates are used in a single contract, the requirements of FAR 32.502-4(d) must be met. The customary progress payment rate applicable to Foreign Military Sales requirements is the same as that applicable to DoD requirements. The customary progress payment rate for flexible progress payments is the rate determined by use of either the CASHII, CASHIII, CASHIV or CASHV computer program as applicable in accordance with the requirements of 232.502-1(S-71).

232.501-2 Unusual Progress Payments.

(a) Contracting officers shall not modify contracts to authorize unliquidated unusual progress payments in excess of $25,000,000 without the prior written consent of the Office of The Assistant Secretary of Defense (Production and Logistics). All other unusual progress payment provisions shall be coordinated by the departmental contract financing office, with the Department of Defense Contract Finance Committee.

232.501-3 Contract Price.

(b) For purposes of making progress payments, the contract price may exceed the funds obligated under the contract if the contract contains an appropriate limitation of funds clause. In such cases, the progress payments shall be limited to the lesser of the applicable percentage of the contract price, or 100% of the funds obligated.

232.502 Preaward Matters.

232.502-1 Use of Customary Progress Payments.

(S-70) Customary FMS Progress Payments.

(1) FMS progress payments shall be applicable to Department of Defense acquisitions on behalf of foreign governments or international organizations pursuant to Section 22 of the Arms Export Control Act (FMS requirements).

(2) FMS progress payments are not applicable to:

(i) Acquisitions for replenishment of U.S. Government inventories or stocks, and

(ii) Acquisitions made under DoD cooperative logistic support arrangements.

(S-71) Customary Flexible Progress Payments.

(1) Paying progress payments assists in financing a contractor's performance and reduces the contractor's investment in its work in process inventory. The actual investment held by a contractor in work in process inventory is influenced by a number of factors in addition to progress payments, such as delivery schedules, cash management practices, and Government payment practices. Progress payment amounts that are determined by using uniform, standard progress payment rates are insensitive to these other factors influencing investment and, as a consequence, result in investments by contractors in work in process inventory that vary among contractors and across contracts; on the other hand, flexible progress payment rates (expressed as a percentage that will be applied to costs to determine the amount payable as a progress payment in the same manner as uniform, standard progress payment rates) are designed to tailor more closely the progress payment rate to the cash needs for financing performance of a particular contractor for a given contract.

(2) For flexible progress payments, cash needs are measured and projected in relation to investment underlying the work in process inventory over the life of the contract. Total investment is measured by a weighted average of total costs paid by the contractor to complete performance of the contract. The contractor's investment is the weighted average of the amount not paid by the Government. The Department of Defense (DoD), as a matter of policy, has concluded that a contractor should retain at least a 20% investment in work in process inventory over the life of the contract. Accordingly, the DoD will make progress payments at a rate (expressed as a whole number) that is the highest rate which yields a corresponding investment by the contractor in work in process inventory of not less than 20%. The progress payment rate is to be determined by the DoD Cash Flow Computer Model. In no event will the progess payment rate be greater than 100%, or less than the uniform, standard progress payment rate that would have been applied to the contract absent flexible progress payments. For any contracts funded with FY 87 appropriations, a contractor must retain at least a 25% investment in work in process inventory over the life of the contract.

(3) Contracting officers shall use a flexible progress payment rate in lieu of the uniform standard rates if:

(i) The contractor requests the use of flexible progress payments rates,

(ii) The contractor agrees to the requirements of this section, and

(iii) The criteria in paragraph (5) below are met.

(4) The flexible progress payment rate shall be determined through application of the DoD Cash Flow Computer Model, available to contracting officers on the COPPER IMPACT computer time sharing network under the computer file name "CASHIV". For contracts funded with FY 87 appropriations, the computer file name "CASHIV" shall be used. The model takes into account key cash flow factors, such as contract cost profile, delivery schedules, subcontractor progress payments, liquidation rates, and payment/reimbursement cycles. Contractors may obtain copies of the DoD Cash Flow Computer Model User's Guide from the Defense Technical Information Center, Building 5, Cameron Station, Alexandria, VA 22314. Contracting officers shall not grant contractor access to Government leased COPPER IMPACT time sharing computer network.

(5) Contractors who submit certified cost or pricing data, as defined in FAR 15.804-2, for negotiated fixed-price contracts in excess of $1 million may request flexible progress payments. Formally advertised contracts are not eligible for flexible progress payments. Flexible progress payments are not available for contracts awarded and performed entirely outside of the United States, its possessions and territories.

(6) Contractors will furnish to the contracting officer cash flow data in the form and context specified by the DoD Cash Flow Computer Model. These data include: actual and projected incurred cost borken down by element of cost and by month for the duration of the contract, float times for each element of cost, progress payment receipts and delivery payment receipts and associated contract prices and profit percentage. Contracting officers will verify the cash flow data in accordance with normal procedures used to verify contractor cost and pricing data. Administrative contracting officers are encouraged to establish advance agreements at contractor locations for float and payment lag which are common to several contracts. Such agreements should be established when administratively practical.

(7) A redetermination of the flexible progress payment rate shall be made upon the request of the Government or contractor if measurement of the contractor's cumulative investment in work in process inventory using actual and projected cash flow data indicates an investment level above 22% or below 18%. The cash flow computer model is designed to generate a progress payment rate that yields a

target investment of 20%, based on a weighted average. Accordingly, there should normally be no need to request actual and projected contract cash flow data unless delivery schedules are revised, Government progress payment lag times are substantially changed from those used in the establishemnt of the progress payment rate, or substantial new work (e.g., option) is added to the contract. For contracts funded with FY 87 appropriations, the investment range is 23% to 27%, with a target investment of 25%.

(8) As noted in FAR 32.504, the standard for progress payments to subcontractors ought to be the same as those applicable to prime contractors. Accordingly, subcontractors who request a flexible progress payment rate, meet the criteria in paragraph (5) above and agree to the requirements of this section are to receive a flexible progress payment rate. The subcontract flexible progress payment rate will be determined by the prime contractor without regard to the progress payment rate in the prime contract. The DoD Cash Flow Computer Model and associated procedures will be used by the prime contractor and a reasonable review of the cash flow data provided by the subcontractor will be made.

(9) When flexible progress payments are contemplated for use on a definitive contract superseding a letter contract or an unpriced BOA order, the applicable standard progress payment clause at FAR 52.232-16 shall be used until definitization.

232.502-2 Contract Finance Office Clearance. Deviation from the Progress Payment clause, policy and procedures prescribed in FAR Part 32 and this Supplement shall be authorized only by the Office of The Assistant Secretary of Defense (Production and Logistics) in accordance with 232.171.

232.502-4 Contract Clauses.

(S-70) The contracting officer shall insert the clause at 252.232-7003, Progress Payments for Foreign Military Sales Acquisitions, in any contract that provides for progress payments and contains FMS requireements.

(S-71) The contracting officer shall insert the clause at 252.232-7004, Flexible Progrses Payments, when a flexible progress payment rate is used in the contract. If the contract is funded with FY 87 appropriations, the clause shall be used with its Alternate I.

(S-72) The contracting officer shall insert the clause at 252.232-7007, Progress Payments, in lieu of FAR clause 52.232-16 and its Alternates I and II, as applicable, in solicitations and fixed-price contracts under which the Government will provide progress payments based on costs if the contract is funded with FY 87 appropriations. The FAR clause at 52.232-16 and its Alternates I and II shall be used, as applicable, for all other solicitations and fixed-price contracts.

(S-73) If the contract is with a small business concern, the contracting officr shall use the clause at 252.232-7007, Progress Payments, with its Alternate I if the contract is funded with FY 87 appropriations. The FAR clause at 252.232-16, with its Alternate I, shall be used for all other fixed-price contracts with small business concerns.

(S-74) If the contract is a letter contract, the contracting officer shall use the clause with its Alternate II if the contract is funded with FY 87 appropriations. The FAR clause at 52.232-16, with its Alternate II, shall be used for all other letter contracts.

232.503 Postaward Matters.

232.503-1 Contractor Requests. Subject to the specific requirements of agency procedures, contractor requests for progress payments may be submitted by computer generated equivalents of the Standard Form 1443.

232.503-6 Suspension or Reduction of Payments.

(g) Loss Contracts.

(S-70) Loss Ratio Adjustment Procedures. The following procedures shall be followed whenever the adjustments required by FAR 32.503-6(f) and (g) are made:

(i) Except as provided in paragraph (ii) below, the loss ratio adjustment shall be calculated by the contracting officer using the procedures in FAR 32.503-6(g) by preparation of a supplementary analysis to the contractor's request for progress payments;

(ii) The Contractor may be requested to prepare the supplementary analysis as an attachment to the progress payment request, when the contracting officer determines, after a review, that the contractor's methods of estimating the Costs to Complete are reliable, accurate, and not susceptible to improper influences, prejudicial to the Government's interests; and

(iii) In order to maintain an audit trail, and permit verification of calculations, the loss ratio adjustment shall not be made by alteration or replacement of the data on the contractor's original request for progress payment (SF 1443 or computer generated equivalent).

232.503-15 Application of Government Title Terms.

(d) The approval requirements of FAR 32.503-15(d) are met when the ACO has determined that the contractor's material management and accounting system conforms to the standard at 242.7206(b)(7). ACO blanket approval of cost transfers between contracts should be contingent upon the contractor retaining records of the transfer activity that took place in the prior month and reporting, at least monthly, a summary of the transfer activity that took place in the prior month. The summary report should include as a minimum, the total number of transfers and their dollar value.

PART 233--PROTESTS, DISPUTES, AND APPEALS
SUBPART 233.2--DISPUTES AND APPEALS

233.204 Policy. When appropriate, the contracting officer should obtain information on claims previously filed by the contractor with other contracting officers before settling the current claim.

233.210 Contracting Officer's Authority. Contracting officer authority under FAR 33.210 is limited by 243.70.

233.213 Obligation to Continue Performance. See 233.214 for examples of when Alternate I to the clause at FAR 52.233-1, Disputes, is prescribed.

233.214 Contract Clause.

(a) The contracting officer shall use Alternate I to the clause at FAR 52.233-1, Disputes, when acquiring aircraft, spacecraft and launch vehicles, naval vessels, missile systems, tracked combat vehicles, and related electronic systems.

(b) Alternate I may also be used in those contracts or classes of contracts when it has been determined, in accordance with Department procedures, that it is essential because of unusual circumstances in which the performance of a contract may be so vital to the national security or to the public health and welfare that performance must be guaranteed even in the event of a dispute that may be characterized as a claim relating to, as opposed to arising under, the contract. Examples of the types of unusual circumstances when continued performance may be determined to be vital to the national security or public health and welfare include the acquisition of weapons, support systems, and related components other than those listed above, or other essential supplies or services whose timely reprocurement from other sources would be impracticable. The determination to use the Alternate I in other situations shall be made by the head of the contracting activity responsible for the acquisition involved.

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PART 247--TRANSPORTATION
SUBPART 247.3--TRANSPORTATION IN SUPPLY CONTRACTS

247.301-3 Using the Defense Transportation System (DTS). Contractual documents shall specify that the contractor shall not ship directly to a consolidation or containerization point (CCP) without authorization from the designated contract administration office.

247.305-10 Packing, Marking and Consignment.

(a)(1) Consignment instructions shall include, as a minimum, the clear text and coded MILSTRIP data as follows:

(i) Code of consignee and clear text identification of consignee and destination as published in the following:

(A) Department of Defense Activity Address Directory (DoDAAD), DoD 4000.25-6-M,

(B) Military Assistance Program Address Directory (MAPAD), DoD 4000.25-8-M, or

(C) Commercial and Government Entity (CAGE) Handbook H4/H8;

(ii) Project code, when applicable;

(iii) Transportation Priority (TP);

(iv) Required Delivery Date (RDD); and

(v) Coded MILSTRIP document number, demand/suffix code, a supplementary address and signal code.

Non-MILSTRIP shipments shall include data similar to (i) through (iv) above and the applicable portion of (v) above, together with the notation "Non-MILSTRIP".

(2) In addition to the data requirements of (i) through (v) of (1) above, amended shipping instructions shall include the following when appropriate:

(i) Name of the activity originally designated, from which the stated quantities are to be deducted; and

(ii) Any other features of the amended instructions not contained in the basic contract.

(b) For contracts assigned for any contract administration function listed in FAR Subpart 42.3 to any office listed in DoD 4105.59-H, DoD Directory of Contract Administration Services Components, such instructions shall include the modification serial number and, if a new line item is created by the issuance of shipping instructions, the new line item number and the existing line item number if affected.

(c) For diversions of petroleum, oil and lubricant (POL) products overseas to new destinations, instructions issued by an office other than that issuing the contract or delivery order and issued by telephone, teletype or telegram are exempted from the requirement to include the modification serial number and the new line item number in such instructions.

(d) See 247.371.

247.305-70 Returnable Gas Cylinders. The contracting officer shall insert the clause at 252.247-7201, Returnable Gas Cylinders, in a solicitation and contract whenever the contract involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders. The contracting officer may modify the 30-day time period specified in the clause to comply with customary commercial practice.

247.306-2 Lowest Overall Transportation Costs.

(a) See 247.105 for information concerning sources for the lowest available freight and related accessorial and incidental charges.

(b) See 247.372 and 247.373.

247.370 DD Form 1384 (1 APR 66), Transportation Control and Movement Document. Reporting procedures and instructions for this form will be in compliance with DoD Regulation 4500.32-R, MILSTAMP.

247.371 Standard Form 30, Amendment of Solicitation/Modification of Contract. When complete consignment instructions are not initially known (See 247.305-10) Form 30 will be used to issue or amend consignment instructions and when necessary, to confirm consignment instructions issued telephonically, via teletype or telegram. When issued to confirm delivery instructions the Form 30 will:

(a) Be stamped or marked "CONFIRMATION" in block letters and shall specify in detail those instructions being confirmed.

(b) Contain no changes to the instructions being confirmed. The confirming Standard Form 30 shall be processed as follows:

(1) For contracts assigned for any contract administration function listed in Subpart 242.3 to any office listed in DoD 4105.59-H, within five working days;

(2) For diversions of petroleum, oil and lubricants (POL) products overseas to new destinations, within 30 days of instructions being confirmed.

(3) Other contracts--

(i) Telephone--within five working days; and

(ii) Teletype or telegraph--consolidate on a monthly basis.

247.372 DD Form 1653 (JUN 88), Transportation Data for Solicitations. DD Form 1653 which will contain recommendations to the contracting officer concerning f.o.b. terms best suited for the acquisition, and other suggested transportation provisions for inclusion in the solicitation, shall be completed upon request of the contracting officer by the transportation specialist, for association with the appropriate purchase request. When appropriate, DD Form 1653 will also include information on combined port handling and transportation charges to be included in the IFB/RFP in connection with export shipments.

247.373 DD Form 1654 (JUL 88), Evaluation of Transportation Cost Factors. DD Form 1654 allows contracting personnel to furnish basic information to the transportation office for development of transportation cost factors which shall be used by the contracting officer in the evaluation of f.o.b. origin bids or proposals. Use of the DD Form is optional.

252.219-7012 Small Business Concern Representation for the Small Business Competitiveness Demonstration Program. As prescribed at 219.1071(a), insert the following provision in full text in all solicitations issued by the participating agencies under the Small Business Competitiveness Demonstration Program for the four designated industry groups.

SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN 1989)

(a) Definition. "Emerging small business", as used in this solicitation, means a small business concern whose size is no greater than fifty percent (50%) of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(b) Complete only if Offeror has certified itself under the clause at FAR 52.219-1 as a small business concern under the size standards of this solicitation.

The Offeror represents and certifies as part of its offer that it _____ is, _____ is not an emerging small business.

(c) Complete only if the Offeror is a small business or an emerging small business, indicating its size range.

Offeror's number of employees for the past twelve (12) months or Offeror's average annual gross revenue for the last three (3) fiscal years. (Check one of the following.)

No. of Employees	Average Annual Gross Revenues
_____ 50 or fewer	_____ $1 million or less
_____ 51 - 100	_____ $1,000,001 - $2 million
_____ 101 - 250	_____ $2,000,001 - $3.5 million
_____ 251 - 500	_____ $3,500,001 - $5 million
_____ 501 - 750	_____ $5,000,001 - $10 million
_____ 751 - 1,000	_____ $10,000,001 - $17 million
_____ Over 1,000	_____ Over $17 million

(End of provision)

252.219-7013 Notice of Emerging Small Business Set-Aside. As prescribed at 219.1071(b), insert the following provision in full text in all solicitations restricted to emerging small businesses pursuant to 219.1070-2.

NOTICE OF EMERGING SMALL BUSINESS SET-ASIDE (JAN 1989)

Offers or quotations under this acquisition are solicited from emerging small business concerns only. Offers that are not from an emerging small business shall not be considered and shall be rejected.

(End of provision)

252.219-7014 Small Business Size Representation for Targeted Industry Categories Under the Small Business Competitiveness Demonstration Program. As prescribed at 219.1071(c), insert the following provision in full text in all solicitations issued in each of the ten targeted industry categories under the Small Business Competitiveness Demonstration Program that is expected to result in a contract award in excess of $25,000.

SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN 1989)

Complete only if the Offeror has certified itself under the clause at FAR 52.219-1 to be a small business concern under the size standards of this solicitation.

Offeror represents and certifies as follows:

Offeror's number of employees for the past twelve (12) months or Offeror's average annual gross revenue for the last three (3) fiscal years. (Check one of the following.)

No. of Employees	Average Annual Gross Revenues
_____ 50 or fewer	_____ $1 million or less
_____ 51 - 100	_____ $1,000,001 - $2 million
_____ 101 - 250	_____ $2,000,001 - $3.5 million
_____ 251 - 500	_____ $3,500,001 - $5 million
_____ 501 - 750	_____ $5,000,001 - $10 million
_____ 751 - 1,000	_____ $10,000,001 - $17 million
_____ Over 1,000	_____ Over $17 million

(End of provision)

(b) Repositioning of empty Government containers within the contractual area of performance, shall be as directed by the Contracting Officer or his designated representative at no additional cost to the Government.

(End of clause)

252.247-7114 Additional Services. As prescribed at 247.271-4(b)(13), insert the following clause:

ADDITIONAL SERVICES (JUN 1987)

Additional services not included in the schedule, but required for satisfactory completion of the services ordered under this contract shall be provided at a rate comparable to the rate for like services as contained in tenders on file with the ICC, state regulatory bodies, or MTMC, in effect at time of order.

(End of clause)

252.247-7200 Reserved.

252.247-7201 Returnable Gas Cylinders. As prescribed in 247.305-70, insert the following clause:

RETURNABLE GAS CYLINDERS (JUN 1989)

(a) Cylinders shall remain the property of the Contractor but will be loaned without charge to the Government for a period of thirty (30) days after the date of delivery of the cylinders to the f.o.b. point specified in the contract. Beginning with the first day after the expiration of the thirty (30) day loan period to and including the day the cylinders are delivered to the Contractor where the original delivery was f.o.b. origin, or to and including the date the cylinders are delivered or are made available for delivery to the Contractor's designated carrier in the case where the original delivery was f.o.b. destination, the Government shall pay the Contractor a rental of _____ dollars ($_____) per cylinder per day, regardless of type or capacity.

(b) This rental charge will be computed separately for cylinders of differing types, sizes, and capacities, and for each point of delivery named in the contract. A credit of thirty (30) cylinder days will accrue to the Government for each cylinder, regardless of type or capacity, delivered by the Contractor. A debit of one (1) cylinder day will accrue to the Government for each cylinder for each day after

delivery to the f.o.b. point specified in this contract. At the end of the contract, if the total number of debits exceeds the total number of credits, rental shall be charged for the difference. If the total number of credits equals or exceeds the total number of debits, no rental charges will be made for the cylinders. No rental shall accrue to the Contractor in excess of the replacement value per cylinder specified in (c) below.

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid therefor:

(i) Oxygen cylinders of 100-110 cubic foot capacity $_____;

(ii) Oxygen cylinders of 200-220 cubic foot capacity $_____;

(iii) Acetylene cylinders of 100-150 cubic foot capacity $_____;and

(iv) Acetylene cylinders of 230-300 cubic foot capacity $_____.

(d) Cylinders lost, or damaged beyond repair, and paid for by the Government shall become the property of the Government, subject to the following: If any lost cylinder is located within _____(insert period of time) after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government an amount equal to the replacement value, less rental computed in accordance with (a) above, beginning at the expiration of the thirty (30) day loan period specified in (a) above, and continuing to the date on which the cylinder was delivered to the Contractor.

(End of clause)

252.247-7202 **Representation of Extent of Transportation by Sea.** As prescribed in 247.574(a), insert the following provision, in full text, in solicitations other than those for direct purchase of ocean transportation services, or those with an anticipated value below the small purchase threshold in FAR Part 13, or those where the contracting officer knows that ocean transportation of supplies as defined in 247.571 will not occur in the performance of the contract or a subcontract thereunder.

REPRESENTATION OF EXTENT OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 1989)

The clause at 252.247-7203, Transportation of Supplies by Sea, will be included in any contract resulting from this solicitation. The Offeror is required to indicate whether transportation by sea is anticipated under the resultant contract by checking the appropriate blank as follows.

The Offeror represents that it ____ does ____ does not anticipate that any of the supplies, as defined in the above-referenced clause, will be transported by sea in the performance of any contract or subcontract resulting from this solicitation. Notwithstanding this representation, the Offeror recognizes and will comply with the requirements of the above-referenced clause.

(End of representation)

(End of provision)

252.247-7203 Transportation of Supplies by Sea. As prescribed in 247.574, insert the following clause in all solicitations and contracts other than those for direct purchase of ocean transportation services, or those with an anticipated value below the small purchase threshold in FAR Part 13.

TRANSPORTATION OF SUPPLIES BY SEA (MAR 1989)

(a) As used in this clause:

(1) "Armed services" means the Army, Navy, Air Force, Marine Corps, and Defense Agencies.

(2) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication or assembly by the Contractor or any subcontractor.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property except land and interests in land that is readily identifiable for eventual use by the armed services, or owned by the armed services, at the time of transportation by sea. It includes (but is not limited to) public works, buildings and facilities, ships, floating equipment and vessels of every character, type, and description, together with parts, subassemblies, accessories, and equipment; machine tools, material, equipment, and stores of all kinds; end items, construction materials and the components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall employ United States-flag vessels, and no others, in the transportation by sea of any supplies to be furnished in the performance of its contractual obligations.

(c) If the Contractor or a subcontractor believes that (1) U.S.-flag vessels are not available for timely shipment; (2) the freight charges are excessive or unreasonable; or (3) freight charges are higher than charges to private persons for transportation of like goods, the Prime Contractor, including subcontractors through the Prime Contractor, may request from the Contracting Officer, in accordance with paragraph (d) below, authorization to ship in foreign-flag vessels or designation of available U.S.-flag vessels. If the Prime Contractor's request to ship supplies in foreign-flag vessels, whether on its own account or on account of a subcontractor, is granted in writing by the Contracting Officer, the supplies may be shipped on foreign-flag vessels in accordance with the approval. The Contracting Officer may condition approval to ship on a foreign-flag vessel on an equitable adjustment of the contract.

(d) The request for use of other than U.S.-flag vessels must be submitted in writing by or through the Prime Contractor to the Contracting Officer at least forty-five (45) days for matters concerning freight charges or for matters concerning availability prior to the sailing date for the shipper to meet its delivery schedules. Requests submitted after such date(s) will be processed as expeditiously as possible but the failure of the appropriate official to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. The request shall contain at a minimum:

(1) Type, weight, and cube of cargo.

(2) Required shipping date.

(3) Special handling and discharge requirements.

(4) Loading and discharge points.

(5) Name of shipper and consignee.

(6) Prime contract number.

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact with at least two (2) U.S.-flag carriers contacted by name and telephone number. Copies of telephone notes, telegraphic and facsimile messages or letters will be sufficient for this purpose.

(8) Certification, to the best of the certifying official's knowledge and belief, that the information provided under this paragraph (d) is accurate, complete and current as of the date of submission and that good faith efforts have been made to secure U.S.-flag transportation in a timely and efficient manner.

(9) Signature of an official of the Contractor eligible to sign claim certification under FAR 33.207(c).

(e) The Contractor agrees to furnish with each invoice submitted for payment a copy of the rated on-board vessel operating carrier's ocean-bills-of-lading executed since the date of the award of the

contract, or executed since the previously submitted invoice. The operating carrier's ocean-bills-of-lading shall contain the following information:

(1) Applicable Government prime contract number;
(2) Name of vessel;
(3) Vessel flag of registry;
(4) Date of loading;
(5) Port of loading;
(6) Port of final discharge;
(7) Description of commodity;
(8) Gross weight in pounds and cubic feet if available;
(9) Total ocean freight in U.S. dollars.
(10) Name of the steamship company.

(f) The Prime Contractor shall ensure that within thirty (30) days after each shipment covered by this clause the shipper shall provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the shipping document cited in paragraph (e), reflecting each shipment made under the contract.

(g) Along with the submission of its final invoice under this contract the Contractor agrees to provide a representation that to the best of its knowledge and belief:

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only United States-flag vessels were used for all ocean shipments under the contract. Legible copies of rated on-board ocean-bills-of-lading or similar shipping documents have been submitted with the applicable invoices to the payment office, to the Contracting Officer and to the Maritime Administration in accordance with paragraphs (e) and (f) of this clause;

(3) Ocean transportation was used, and to the extent any non-U.S.-flag vessels were used, the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. These shipments were as follows:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
Total		

(h) If the final invoice does not include the required representations and documentation, it will be rejected and returned to

the Contractor as an improper invoice for the purposes of the clause of the contract entitled "Prompt Payment". In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(i) The Contractor shall include this clause, including this paragraph (i), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder.

(End of clause)

DEPARTMENT OF DEFENSE FORMS

253.303-70-DD-1662

DD Form 1662: DoD Property in the Custody of Contractors

DOD PROPERTY IN THE CUSTODY OF CONTRACTORS
(DFARS 245.505-14)
(See instructions on reverse before completing this form.)

REPORT AS OF 30 SEP 19____
OR
_____

Form Approved
OMB No. 0704-0246
Expires Oct 31, 1991
REPORT CONTROL SYMBOL

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0246), Washington, DC 20503.

1. TO *(Enter name and address of property administrator)*	2. FROM *(Enter full name, address and CAGE code of contractor)*

3. IF GOVERNMENT-OWNED, CONTRACTOR-OPERATED PLANT, ENTER GOVERNMENT NAME OF PLANT			
4. CONTRACT NO. *(PIIN)*	5. CONTRACT PURPOSE	6. BUSINESS TYPE *(L, S, or N)*	7. OFFICIAL NAME OF PARENT COMPANY

8. PROPERTY LOCATION(S)	9. PLANT EQUIPMENT PACKAGE *(PEP NO. and use)*

a. PROPERTY *(Type or Account)*	b. BALANCE BEGINNING OF PERIOD		c. ADDITIONS *(in dollars)*	d. DELETIONS *(in dollars)*	e. BALANCE END OF PERIOD	
	(1) Acquisition Cost *(in dollars)*	(2) Quantity *(in units or acres)*			(1) Acquisition Cost *(in dollars)*	(2) Quantity *(in units or acres)*
10. LAND						
11. OTHER REAL PROPERTY						
12. OTHER PLANT EQUIPMENT						
13. INDUSTRIAL PLANT EQUIPMENT						
14. SPECIAL TEST EQUIPMENT						
15. SPECIAL TOOLING *(Government Title Only)*						
16. MILITARY PROPERTY *(Agency - Peculiar)*						
17. GOVERNMENT MATERIAL *(Government - Furnished)*						
18. GOVERNMENT MATERIAL *(Contractor - Acquired)*						

CERTIFICATION

I certify that this report was prepared under DoD requirements from records maintained under FAR 45.5 and DFARS 245.5.

19. CONTRACTOR REPRESENTATIVE		
a. TYPED NAME *(Last, First, Middle Initial)*	b. SIGNATURE	c. DATE SIGNED *(YYMMDD)*

20. DOD PROPERTY REPRESENTATIVE		
a. TYPED NAME *(Last, First, Middle Initial)*	c. SIGNATURE	d. DATE SIGNED *(YYMMDD)*
b. TELEPHONE NUMBERS *(Commercial and Autovon)*		

DD Form 1662, MAR 99 *Previous editions are obsolete* 1662.DTA

DEPARTMENT OF DEFENSE FORMS

253.303-70-DD-1662

DD Form 1662 Reverse (Reporting Instructions)

REPORTING INSTRUCTIONS

GENERAL. The prime contractor shall report all DoD property *(as indicated)* in its custody or in that of its subcontractors as of September 30 to the Government Property Representative by October 31 of each year. Report zero balances on contracts accountable for DoD property when they close.

REPORT AS OF 30 SEP 19 ___. Fill in the appropriate year *(or other date)*.

ITEM 1 - TO. Enter the name of the Government Property Representative, the Contract Administration Office or other office the Government Property Representative works for, and the full mailing address *(including City, State, and ZIP + 4)*.

ITEM 2 - FROM. Enter the full name and address of the reporting contractor with the Division name stated after the Corporate name. Use the name as it appears on the contract but omit articles and insert spaces between company names that are made up of letters like B D M International Inc., for example. Also enter the Commercial and Government Entity (CAGE) Code.

ITEM 3 - Enter the Government name of the plant if the plant is Government - owned and Contractor - operated. Leave blank if it is a contractor - owned plant.

ITEM 4 - CONTRACT NO. *(PIIN)*. Enter the 13-digit contract number or Procurement Instrument Identification Number *(PIIN)* under which the Government property is accountable. Use format XXXXXX - XX - X - XXXX.

ITEM 5 - CONTRACT PURPOSE. Enter one of the following 1-character alphabetic codes to identify the general purposes of the contract:

a. RDT&E

b. Supplies and Equipment *(deliverable end items)*

c. Facilities Contract

d. Lease of facilities by the contractor

e. Maintenance, Repair, Modification, or Rebuilding of Equipment

f. Operation of a Government - Owned Plant or Facilities including test sites, ranges, installations

g. Service contract performed primarily on Military Installations, test facilities, ranges or sites

h. Contract for storage of Government Property

i. Others

ITEM 6 - TYPE OF BUSINESS. Enter a 1-character alphabetic code indicating the type of business concern:

L = Large S = Small N = Non-profit

(See FAR Part 19 for definition of Small Business and FAR 31.701 for definition of Non-profit Organizations.)

ITEM 7 - Enter the name of the Parent Corporation of the Reporting Contractor. The Parent Corporation is one in which common stock has been issued whether or not the stock is publicly traded and which is not a subsidiary of another corporation.

ITEM 8 - PROPERTY LOCATION(S). Enter the primary location(s) of the property if it is located at site(s) other than that of the Reporting Contractor, e.g., location of subcontract property or property at alternate sites of the prime contractor. Location is the City, State and Zip or the Military Installation or the Foreign site. Limit input to 69 characters. NOTE: Can be used as a "REMARKS" field.

ITEM 9 - PLANT EQUIPMENT PACKAGE. Enter the Number and Use of a Plant Equipment Package *(PEP)* if one exists on this contract. Leave blank otherwise. Example: ARMY PEP #570 - 81 mm Shells.

ITEMS 10 - 18.b.(1) - ACQUISITION COST (BALANCE AT THE BEGINNING OF THE FISCAL YEAR). Enter the acquisition cost for each type of property as defined in FAR 45.5 or DFARS 245.5. The amounts reported must agree with the amounts reported in the previous year for BALANCE AT END OF PERIOD.

ITEMS 10, 12 - 16.b.(2) - QUANTITY (BALANCE AT BEGINNING OF THE FISCAL YEAR). Enter the quantity for all categories of Government property except for Other Real Property and Material on hand at the beginning of the fiscal year. The amounts reported must agree with the amounts reported in the previous year for BALANCE AT END OF PERIOD.

ITEMS 10 - 15.c. - ADDITIONS *(in dollars)*. For the property categories indicated, enter the acquisition cost for the total additions to the contract from any source during the fiscal year. Do not enter for Government Material or Military Property.

ITEMS 10 - 15.d. - DELETIONS *(in dollars)*. For the property categories indicated, enter the acquisition cost for the total deletions from the contract during the fiscal year. Do not enter for Government Material or Military Property.

ITEMS 10 - 18.e.(1) - ACQUISITION COST (BALANCE AT THE END OF THE FISCAL YEAR). Enter the acquisition cost for each type of property as defined in FAR 45.5 or DFARS 245.5.

ITEMS 10, 12 - 16.e.(2) - QUANTITY (BALANCE AT END OF FISCAL YEAR). Enter the quantity for all categories of Government Property except for Other Real Property and Material on hand at the end of the fiscal year. These will be carried forward to reflect the balance at the beginning of the following year.

ITEM 19 - CONTRACTOR REPRESENTATIVE. Type the name of the contractor representative authorized by the property control system to sign this report. This will be the person certifying the report was prepared under DoD reporting requirements from records maintained by the contractor under FAR 45.5 & DFARS 245.5. Date and signature of person indicated in Item 19.a.

ITEM 20 - DOD PROPERTY REPRESENTATIVE. Type the name of the DoD Property Administrator or other Authorized Property Representative, plus that individual's commercial area code and telephone number and AUTOVON number *(if one exists)*. Signature and date.

NOTE TO CONTRACTOR: When reporting more than one contract from the same location and the same contractor, you may elect to fill out Data Elements 1, 3, 6, 7, and 19 only once as long as each form can be readily identified if any form becomes separated from the others. The certification in such cases will apply to all forms submitted whether or not each form is individually signed.

DD Form 1662 Reverse, MAR 89

DEPARTMENT OF DEFENSE FORMS

253.303-70-DD-1707

DD Form 1707: Information to Offerors or Quoters

INFORMATION TO OFFERORS OR QUOTERS SECTION A - COVER SHEET	1. SOLICITATION NUMBER	2. (X one) a. SEALED BID b. NEGOTIATED (RFP) c. NEGOTIATED (RFQ)

INSTRUCTIONS

NOTE THE AFFIRMATIVE ACTION REQUIREMENT OF THE EQUAL OPPORTUNITY CLAUSE WHICH MAY APPLY TO THE CONTRACT RESULTING FROM THIS SOLICITATION.

You are cautioned to note the "Certification of Non-Segregated Facilities" in the solicitation. Failure to agree to the certification will render your reply nonresponsive to the terms of solicitations involving awards of contracts exceeding $25,000 which are not exempt from the provisions of the Equal Opportunity clause.

"Fill-ins" are provided on the face and reverse of Standard Form 18 and Parts I and IV of Standard Form 33, or other solicitation documents and Sections of Table of Contents in this solicitation and should be examined for applicability.

See the provision of this solicitation entitled either "Late Bids, Modifications of Bids or Withdrawal of Bids" or "Late Proposals, Modifications of Proposals and Withdrawals of Proposals."

When submitting your reply, the envelope used must be plainly marked with the Solicitation Number, as shown above and the date and local time set forth for bid opening or receipt of proposals in the solicitation document.

If NO RESPONSE is to be submitted, detach this sheet from the solicitation, complete the information requested on reverse, fold, affix postage, and mail. NO ENVELOPE IS NECESSARY.

Replies must set forth full, accurate, and complete information as required by this solicitation (including attachments). The penalty for making false statements is prescribed in 18 U.S.C. 1001.

3. ISSUING OFFICE (Complete mailing address, including Zip Code)

4. ITEMS TO BE PURCHASED (Brief description)

5. PROCUREMENT INFORMATION (X and complete as applicable)

a. THIS PROCUREMENT IS UNRESTRICTED

b. THIS PROCUREMENT IS A _____ % SET-ASIDE FOR ONE OF THE FOLLOWING (X one). (See Section C of the Table of Contents in this solicitation for details of the set-aside.)

(1) Small Business | (2) Labor Surplus Area Concerns | (3) Combined Small Business/Labor Area Concerns

6. ADDITIONAL INFORMATION

7. POINT OF CONTACT FOR INFORMATION

a. NAME (Last, First, Middle Initial)

b. ADDRESS (Include Zip Code)

c. TELEPHONE NUMBER (Include Area Code and Extension) (NO COLLECT CALLS)

DD Form 1707, MAR 89 — Previous editions are obsolete. — 661089

DEPARTMENT OF DEFENSE FORMS

253.303-70-DD-1707

DD Form 1707: Information to Offerors or Quoters (Reverse)

8. REASONS FOR NO RESPONSE (X all that apply)			
	a. CANNOT COMPLY WITH SPECIFICATIONS		b. CANNOT MEET DELIVERY REQUIREMENT
	c. UNABLE TO IDENTIFY THE ITEM(S)		d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
	e. OTHER (Specify)		
9. MAILING LIST INFORMATION (X one)			
	YES		NO WE DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEM(S) INVOLVED
10. RESPONDING FIRM			
a. COMPANY NAME		b. ADDRESS (Include Zip Code)	
c. ACTION OFFICER			
(1) Typed or Printed Name (Last, First, Middle Initial)	(2) Title	(3) Signature	(4) Date Signed (YYMMDD)

DD Form 1707 Reverse, MAR 89

FOLD FOLD

FOLD FOLD

FROM

AFFIX STAMP HERE

SOLICITATION NUMBER	
DATE (YYMMDD)	LOCAL TIME

TO

(e) If the property administrator concludes that the contractor should be liable for the loss, damage, destruction, or unreasonable consumption of Government property, he shall forward the complete file with his conclusions and recommendations to the administrative contracting officer for review and determination. The file shall contain:

(i) a statement of facts as supported by investigation;

(ii) recommendations as to contractor's liability, and the amount thereof;

(iii) recommendations as to action to be taken with regard to third party liability, if appropriate;

(iv) requirements for disposition, repair, or replacement of the damaged property; and

(v) other pertinent comments.

A copy of the determination shall be furnished to the contractor, to the property administrator, and a copy shall be retained in the files of the administrative contracting officer. The property administrator's copy shall be filed in the Contract Property Control Data File for the contract when all pertinent actions, such as compensation to the Government or repair or replacement of the property, have been completed.

S3-603 Report of Property.

(a) The property administrator is responsible for obtaining the reports as prescribed in 245.505-14 of the DoD FAR Supplement for all contracts assigned for property administration, including those for which supporting property administration was requested from other DoD CAS components. Reports should be accumulated and reviewed to determine that inputs are complete and that the DD Form 1662, MAR 89, is properly filled out. Each report shall be processed to the Defense Logistics Agency (DLA) by November 30 of each year, either manually or electronically, in accordance with Departmental instructions. One copy shall be retained by the property administrator.

(b) The Defense Logistics Agency (DLA) shall receive, consolidate, and integrate the data and submit error listings to each administering department for correction, as required. DLA shall maintain the corrected data and provide reports, either in hard copy or electronically, as required or requested by Departments or agencies.

(c) On NASA contracts, the annual contractor's report (NASA Form 1018), specified in NASA FAR Supplement 1845.106-70(d), will be transmitted by the property administrator to the NASA contracting officer's designee as identified in the property reporting clause (NASA FAR Supplement 1852.245-73) within ten working days after receipt of the report from the contractor.

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